

780 CMR 110.00

780 CMR 110.R1

CONCRETE TESTING LABORATORIES LICENSING

(Note: 780 CMR 110.R1 is unique to Massachusetts)

780 CMR 110.R1.1 Administration

**110.R1.1.1 Scope.** Provisions of 780 CMR 110.R1.1 shall govern the licensing of concrete testing laboratories.

**110.R1.1.2 Definitions.** The following words terms shall, for the purpose of 780 CMR 110.R1 and as used elsewhere in 780 CMR, have the meaning indicated in 780 CMR 110.R1.1.2:

**ACCREDITED LABORATORY.** A laboratory which has been licensed in accordance with 780 CMR 110.R1 by the State Board of Building Regulations and Standards (BBRS).

**BBRS.** State Board of Building Regulations and Standards (BBRS).

**BRANCH LABORATORIES.** A branch of a testing laboratory physically removed from the location of the headquarters or main testing facility of the testing laboratory.

**LABORATORIES.** Testing laboratory, branch laboratory and project laboratory.

**PERSON.** Individual, partnership, corporation, trust, joint venture, etc.

**PROJECT LABORATORY.** A temporary on-site facility providing concrete testing services for a specific project under the direction of a testing or branch laboratory licensed by the Commonwealth of Massachusetts.

**TESTING AGENCY.** National Institute of Standards and Technology (NIST), Cement and Concrete Reference Laboratory (CCRL), the Army Corps of Engineers or other agency designated by the BBRS.

**TESTING LABORATORY.** A proprietorship, corporation, partnership or agency which conforms to the requirements of ASTM E 329-72 as modified in 780 CMR 110.R1

**110.R1.1.3 Licensing.** All laboratories defined by 780 CMR 110.R1.1.2 as testing laboratories, branch laboratories and project laboratories which are engaged in the testing of concrete and concrete materials for use in buildings and structures subject to the construction control provisions of 780 CMR 116.0 will be licensed by the BBRS in accordance with 780 CMR 110.R1.

**110.R1.1.4 Application for Licensing.** Each laboratory desiring to obtain such license shall make application to the BBRS upon such form and in such manner as the BBRS shall prescribe and shall furnish evidence satisfactory to the BBRS that the

laboratory equipment meets the requirements of 780 CMR 110.R 1.2 and its management personnel are qualified in accordance with 780 CMR 110.R 1.4 and .5. Such application shall also include payment of the licensing fee set forth in 780 CMR 110.R1.1.8.

**110.R1.1.5 Prequalifying Agency.** The BBRS hereby designates the CMSB as its prequalifying agency, provided, however, that the BBRS may revoke such designation at any time, and may designate any other agency or agencies which it deems qualified, from time to time, to act as its prequalifying Agency. The prequalifying agency shall examine, or cause to be examined, the evaluation performed by the testing agency and the personnel on each Concrete Testing Laboratory application and make its recommendation to the BBRS regarding such license.

**110.R1.1.6 Testing Agency.** The BBRS hereby designates the Cement and Concrete Reference Laboratory of the National Institute of Standards and the Army Corps of Engineers as the agencies to examine and evaluate all laboratories desiring to be licensed in the practice of concrete testing, provided, however, that the BBRS may revoke such designation at any time, and may designate any other agency or agencies which it deems qualified, from time to time, to act as its testing agency.

**110.R1.1.7 Notification of Testing and Testing Results.** The testing agency shall notify the applicant of the date for evaluation and shall provide the audited laboratory with a report of audit findings.

**Note:** Unless specific permission has been granted by the BBRS, accredited laboratories must have the capability to test both concrete and concrete aggregate.

**110.R1.1.7.1 Audit Findings Response.** The audited laboratory shall request that the testing agency forward a copy of the audit report to the BBRS.

The audited laboratory shall prepare formal responses to each and all audit findings and issue such response report to the BBRS for review (also see 780 CMR 110.R1.3).

**110.R1.1.8 Licensing Fee.** The fee for licensing shall be \$150 *per annum* or in accordance with the fee schedule established by the BBRS from time to time.

**110.R1.1.9 Number and Classification.** Each laboratory so licensed by the BBRS shall be issued a number and classification.

**110.R1.1.10 Renewals.** Commencing January 1, 1978, all licenses issued shall expire on December 31<sup>st</sup> of the year issued. Within 60 days before the expiration date of any such license, the Administrator of the BBRS shall forward to each laboratory so licensed an application form for renewal. Said renewals shall be returned to the BBRS by December 31<sup>st</sup>. The said Administrator, upon receipt of the completed form and fee, shall renew the license for a period of one year or notify such applicant of the BBRS's refusal with reasons thereof.

**110.R1.1.11 Penalties.** Any such person and/or laboratory who fails to comply with the requirements of 780 CMR 110.R1 or who files a false report shall be subject to the penalties and actions as prescribed in the 780 CMR 118.0.

### **780 CMR 110.R1.2 LABORATORY LICENSING REQUIREMENTS**

**110.R1.2.1 ASTM Testing Requirements.** Except as modified in 780 CMR 110.R1, all testing laboratories including branch laboratories shall conform to ASTM E 329-72, Sections 5 and 6, standard requirements for testing of concrete and its constituent materials.

**Exception:** The following sections of ASTM E 329-72 shall not apply:

Sections 2.2; 2.3; 2.7; 3.2.7; 3.3; 3.4 C360 of 6.2; 7; 8; 9 and 10.

**110.R1.2.2 ASTM Equipment and Personnel Requirements.** All laboratories subject to 780 CMR 110.R1 shall be approved and licensed in accordance with the ASTM E 329-72 standard for the performance of those functions recommended in standard ASTM E 329-72, for equipment and personnel, as modified in 780 CMR 110.R1.

### **780 CMR 110.R1.3 PREQUALIFICATION REQUIREMENTS FOR LABORATORIES**

#### **110.R1.3.1 Evaluation.**

1. Testing and branch laboratories subject to 780 CMR 110.R1 shall be examined and evaluated, upon notification from the BBRS, by a testing agency designated by the BBRS. The interval between such examination and evaluation shall not exceed three years.
2. Project laboratory equipment which is used in the testing of concrete materials for use in buildings and structures subject to the provisions of 780 CMR shall conform to the requirements of ASTM E 329 as modified by 780 CMR 110.R1.2.
3. Reports of evaluations by the testing agency shall be filed with the BBRS within ten days of receipt of the report by the laboratory, unless a waiver is granted by the laboratory to have the report sent directly to the BBRS by the testing agency.

4. Laboratory deficiencies cited in the report of the testing agency shall be corrected within 30 days of the date of issue of the report and shall be so certified by an affidavit submitted by the laboratory on a form supplied by the BBRS.

**110.R1.3.2 Review of Deficiencies.** Laboratories which fail to meet the requirements of 780 CMR 110.R1 .3. Items 3. and 4. shall be subject to review and revocation of their license by the BBRS.

**110.R1.3.3 Testing Machines.** Compression testing machines used for testing materials subject to 780 CMR 110.R1 shall be calibrated and verified, with equipment traceable to the National Institute of Standards and Technology (NIST), at least annually or as required by the BBRS, and the results submitted to the BBRS.

### **780 CMR 110.R1.4 PERSONNEL**

The management and supervision of each laboratory subject to 780 CMR 110.R1 shall be in accordance with the following requirements:

**110.R1.4.1 Required.** Each accredited licensed concrete testing laboratory must have an individual approved by the BBRS in each of three distinctly different categories: director of testing services, supervisory laboratory technician and supervisory field technician. An individual may fill more than one position at the particular laboratory if he or she meets all the qualifications for each position, but he or she may not fill positions concurrently at a separate (branch or project) laboratory. The project laboratory must have a full-time resident supervisory laboratory technician qualified in accordance with 780 CMR 110.R1.

**110.R1.4.2 Filing of Qualifications.** Each individual being certified for a position must submit his or her credentials and qualifications under penalty of perjury with signature notarized. Individuals applying for certification in more than one category must file separate applications for each position as described in 780 CMR 110.R 1.5. Application for certification shall be filed within 30 days of employment for such duties. It is the responsibility of the director of testing services to notify the BBRS within seven days of any vacancy of any position. Any vacant position shall be filled within 30 days.

### **780 CMR 110.R1.5 QUALIFICATIONS**

**110.R1.5.1 Qualifications for Director of Testing Services.** The testing services of each laboratory (main, branch or project) shall be under the direction of a director of testing services who shall be a full-time resident employee of that laboratory and shall be qualified in accordance with anyone of the following three sets of requirements:

1. He or she shall be a professional engineer, registered in the Commonwealth of Massachusetts with a least five years of experience in responsible charge of work related to structural engineering, construction engineering or construction materials testing. He or she shall be subject to demonstrate his or her ability to interpret the results of tests of concrete and concrete aggregates as stated in ASTM E 329-72; or
2. He or she shall have a Bachelor's Degree in Engineering from an accredited institution and an additional total of three years of experience performing tests on concrete and concrete materials which shall include two years as a laboratory technician or supervisor. He or she shall be subject to demonstrate his or her ability to interpret the results of tests of concrete and concrete aggregates as stated in ASTM E 329-72; or
3. He or she shall have at least eight years experience including five years of experience as a laboratory technician or supervisor and shall be subject to demonstrate his or her ability to interpret the results of tests of concrete and concrete aggregates as stated in ASTM E 329-72.

**110.R1.5.2 Qualifications for Supervisory Laboratory Technician.** A supervisory laboratory technician shall have at least five years of experience performing tests on construction materials including concrete and concrete aggregates. He or she shall be subject to demonstrate his or her ability to perform correctly tests of concrete and aggregates as stated in ASTM E 329-72. "Class A" accreditation by the prequalifying agency shall be required as qualification for concrete only. (See 780 CMR 110.R2 *Concrete Testing Personnel Licensing*.)

**110.R1.5.3 Qualifications for Supervisory Field Technician.** A supervisory field technician shall have at least five years of experience performing tests on construction materials including concrete. He or she shall be subject to demonstrate either by oral or written examination, or both, his or her ability to perform correctly the tests of concrete as stated in ASTM E 329-72. "Class A" accreditation by the prequalifying agency shall be required as qualification for concrete only. (See 780 CMR 110.R2 *Concrete Testing Personnel Licensing*.)

#### **780 CMR 110.R1.6 PROJECT AFFIDAVIT**

In accordance with 780 CMR 110.12, those structures subject to control as required in 780 CMR 116.0, affidavits must be submitted with the building permit application that the individuals and testing laboratories responsible for carrying out the duties of 780 CMR 116.0 have been licensed and registered by the BBRS.

**110.R1.6.1 Affidavit.** In accordance with 780 CMR 110.R1.6, an affidavit shall be furnished to the building department by the licensed laboratory and

shall be provided by the licensed laboratory for each building project.

**110.R1.6.2 Notice of Termination.** The building official shall receive written notification of the termination of laboratory functions certifying that the owner has also been so notified. Such termination shall be effective no earlier than three working days from the notification received by the building official.

**110.R1.6.3 Successor Laboratory.** If concrete testing is to be continued for the said project by a successor laboratory, such notice shall be given to the building official and a new project affidavit shall be filed with the building official.

#### **780 CMR 110.R1.7 REVOCATION AND SUSPENSION PROCEDURES**

**110.R1.7.1 Revocation and Suspension.** The BBRS on its own initiative or upon the recommendation of the CMSB may suspend or revoke the license of any testing laboratory or project laboratory found to be in noncompliance with 780 CMR 110.R1, 780 CMR, or the standards of good practice. Notice of suspension or revocation of such license shall be in writing with the reasons for suspension or revocation clearly set forth therein, and served in accordance with the 780 CMR 118.6.

**110.R1.7.2 Notice and Conference.** Prior to suspension, revocation or refusal to renew the license of an accredited laboratory, written notice of such intent shall be served by the Construction Materials Safety Board of BBRS in accordance with 780 CMR 118.6. Within ten calendar days of receipt of such notice, the affected accredited laboratory may request a conference before a three-member panel designated by the chairman of the Construction Materials Safety Board; said panel will hear facts and make its recommendations to the CMSB, who in turn shall report such findings to the BBRS for BBRS consideration and action.

**110.R1.7.3 Effect of Suspension or Revocation.** Upon suspension or revocation of the license, the accredited laboratory shall immediately cease engaging in the testing of concrete and concrete materials for use in buildings and structures which are subject to the provisions of 780 CMR 116.0 and no action brought before the Board of Appeals as specified in 780 CMR 110.R1.8.1 or in any court of competent jurisdiction shall stay the said suspension or revocation unless said Board of Appeals or court shall issue an order for a stay of the BBRS's suspension or revocation.

#### **780 CMR 110.R1.8 APPEALS**

**110.R1.8.1 Building Code Appeals Board.** Any laboratory or individual aggrieved by the suspension or revocation of its license or by an interpretation, order, requirement, direction or failure to act under

780 CMR: STATE BOARD OF BUILDING REGULATIONS AND STANDARDS  
THE MASSACHUSETTS STATE BUILDING CODE

780 CMR 110.R1 may appeal to the State Building Code Appeals Board as provided in 780 CMR 122.0; however, entry of an appeal from the BBRS's order of revocation or suspension shall not stay such revocation or suspension unless so ordered by the	State Building Code Appeals Board in a preliminary hearing conducted expressly for the purpose of a stay in accordance with that part of 780 CMR 122.3.2 dealing with procedure required for a hearing on such stay.
--	--

## 780 CMR 110.R2

### CONCRETE FIELD TESTING TECHNICIAN LICENSING

(Note: 780 CMR 110.R.2 is unique to Massachusetts)

#### 780 CMR 110.R2.1 ADMINISTRATION

**110.R2.1.1 Title.** As authorized by M.G.L. c. 143, §§ 93 through 100, 780 CMR 110.R2 is adopted for Concrete Field Testing Technician.

**110.R2.1.2 Definitions.** Unless otherwise expressly stated in 780 CMR, the following terms, for the purpose of 780 CMR 110.R2, shall have the meaning indicated in 780 CMR 110.R2.1.2.

**CONCRETE FIELD TESTING TECHNICIAN.** A person issued a Grade 1 license by the American Concrete Institute (ACI) authorizing such person to test/inspect concrete.

**TESTING AGENCY.** Massachusetts Construction Industry Board (MCIB) or other official “local sponsoring group” of ACI.

**110.R2.1.3 Licensing.** All personnel engaged in field testing/inspection of concrete for use in buildings and structures subject to the construction control provisions of 780 CMR 116.0 shall be licensed by ACI as a Concrete Field Testing Technician - Grade 1 in accordance with ACI’s

“Certification Policies for Concrete Field Testing Technician - Grade 1” and 780 CMR 110.R2.

**110.R2.1.4 Application for Licensing.** Applicants shall contact and follow the policies and procedures of the Testing Agency and ACI to be licensed in accordance with 780 CMR 110.R2.

**110.R2.1.5 Examination.** Applicants shall contact the Testing Agency regarding applications, fees and exam schedules. The exam includes a written and practical “hands-on” component.

**110.R2.1.6 Notification of Examination and Examination Results.** The testing agency provides the time and place for the examination. ACI provides exam results directly to the applicant.

**110.R2.1.7 Fees.** Application, testing and license fees are paid to the Testing Agency and/or ACI.

**110.R2.1.8 Renewals.** Licenses shall be renewed according to the policies of ACI.

NON-TEXT PAGE

## 780 CMR 110.R3

### MANUFACTURED BUILDINGS, BUILDING COMPONENTS AND MOBILE HOMES

(Note: 780 CMR 110.R3 is unique to Massachusetts)

#### **PART I—GENERAL**

##### **780 CMR 110.R3.1 ADMINISTRATION**

**110.R3.1.1 Title.** The BBRS, Massachusetts Board of Fire Prevention Regulations, Massachusetts Board of State Examiners of Electricians, and the Massachusetts Board of State Examiners of Plumbers and Gas Fitters herewith adopt the Rules and Regulations for Manufactured Buildings, Manufactured Building Components and Manufactured Homes.

**110.R3.1.2 Definitions.** Unless otherwise expressly stated in 780 CMR the following terms shall, for the purpose of 780 CMR 110.R3, have the meaning indicated in 780 CMR 110.R3.1.2.

**APPROVAL.** Approval by the State Board of Building Regulations and Standards (BBRS).

**BUILDING SYSTEM.** Plans, specifications and documentation for a system of manufactured buildings or for a type or a system of manufactured building components, which may include structural, electrical, mechanical, plumbing and fire protection systems and other systems affecting health and safety, including variations which are submitted as part of the building system.

**CERTIFICATION.** Any manufactured building, manufactured building component or manufactured home which meets the provisions of the applicable Codes and Rules and Regulations pursuant thereto; and which has been labeled accordingly.

**CODE.** 780 CMR or Specialized Codes as defined.

**DEALER OF MODULAR HOMES.** (For purposes of this definition, a modular home is a single or multiple, single-family residential manufactured building.) Any individual, organization or firm engaged in the retail selling, or offering for sale, brokering, or distribution of modular homes, primarily to a person who in good faith, purchases or leases such home for purposes other than resale. Such individual, organization or firm shall be registered with the Board of Building Regulations and Standards in accordance with policies established therefore.

**DEPARTMENT - DPS.** The Department of Public Safety, Division of Inspections.

**INSPECTION AGENCY.** Independent agency, sometimes referred to as “third-party agency,” retained by the manufacturer and approved by BBRS to perform inspections and evaluations of

building systems, compliance assurance programs, manufactured buildings, and manufactured building components.

**INSTALLATION.** The process of affixing, or assembling and affixing a manufactured building, manufactured building component or manufactured home on the building site, and connecting it to utilities, and/or to an existing building. Installation may also mean the connecting of two or more manufactured housing units designed and approved to be so connected for use as a dwelling.

**INSTALLER OF MANUFACTURED BUILDINGS.** An individual who, on the basis of training and experience, has been certified by a specific manufacturer of manufactured homes as competent to supervise the placement and connection required to install the manufactured homes of that manufacturer. Said certification by the manufacturer shall be in writing; additionally, the certified installer shall possess picture identification in the form of a driver’s license or other picture identification acceptable to the building official in accordance with, 780 CMR 108.3.5.1.

**LABEL.** An approved device or seal evidencing certification in accordance with the applicable Codes and Rules and Regulations promulgated pursuant thereto.

**LOCAL ENFORCEMENT AGENCY.** A department or agency in a municipality charged with the enforcement of 780 CMR and appropriate specialized codes which include, but are not limited to, 248 CMR (the State Plumbing and Gas Fitting code) and 527 CMR 12.00 (the State Electrical Code).

**MANUFACTURED BUILDING.** Any manufactured building which has concealed elements, such as electrical, mechanical, plumbing, fire protection, insulation, and other systems affecting health and safety, and which is manufactured or assembled in accordance with 780 CMR and pertinent regulations, in manufacturing facilities, on or off the building site. Also, any manufactured building as defined above which does not have concealed elements, but which has been approved by the BBRS at the request of the manufacturer. “Manufactured building” does not mean “manufactured home.”

**MANUFACTURED BUILDING COMPONENT.** Any manufactured subsystem, manufactured subassembly, or other system designed for use in or as part of a structure having concealed elements such as electrical, mechanical,

780 CMR: STATE BOARD OF BUILDING REGULATIONS AND STANDARDS  
THE MASSACHUSETTS STATE BUILDING CODE

plumbing and fire protection systems and other systems affecting health and safety.

**MANUFACTURED HOMES (Housing).** As defined in 24 CFR, Part 3280.2; a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. Calculations used to determine the number of square feet in a structure will be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows. (See 24 CFR, Part 3280.2 for a more detailed description of manufactured homes as defined by the Department of Housing and Urban Development.)

**RECERTIFIED MANUFACTURED BUILDING.** Any manufactured building as herein defined that was previously designed and constructed to conform with requirements of a particular use group or groups for use at a site and that subsequently is to be relocated to a different site. Such buildings, also known as relocatable units, shall be inspected by the responsible third-party inspection agency and recertified in accordance with 780 CMR and 780 CMR 110.R3 as applicable to ensure compliance with the new use group or groups if such use group or groups has changed or to requirements of the original use group or groups if not changed prior to being set at the new location.

**SPECIALIZED CODE.** All building codes, rules or regulations pertaining to building construction, reconstruction, alteration, repair or demolition promulgated by and under the authority of the various agencies which have been authorized from time to time by the General Court of the Commonwealth of Massachusetts. The specialized codes shall include, but not be limited to, 248 CMR (the State Plumbing and Gas Fitting Code) and 527 CMR 12.00 (the Electrical Code).

**STATE ADMINISTRATIVE AGENCIES.** Boards, commissions, departments or agencies authorized to promulgate, adopt and amend codes and rules and regulations relating to buildings and structures and parts thereof and limited to the BBRS, Massachusetts Board of Fire Prevention Regulations, Massachusetts State Examiners of Electricians, and the Massachusetts Board of State Examiners of Plumbers and Gas Fitters.

**STATE ENFORCEMENT AGENCIES.** Boards, commissions, departments or agencies authorized to enforce the provisions of the codes and rules and regulations which have been promulgated, adopted and amended and which relate to buildings or structures and parts thereof and limited to the Department of Public Safety, Massachusetts Board of State Examiners of Plumbers and Gas Fitters, and the Massachusetts State Examiners of Electricians.

**110.R3.1.3 Scope.**

1. 780 CMR 110.R3 shall govern the design, manufacture, handling, storage, transportation and installation of manufactured buildings, and manufactured building components intended for installation in this State and/or manufactured in this State for shipment to any other state in which such building, building components, or manufactured homes and the labels thereon are accepted.
2. The Federal Manufactured Home Construction and Safety Standards promulgated by the Department of Housing and Urban Development govern the design, manufacture, handling, storage and transportation of manufactured homes for installation in this state.
3. Subject to local zoning ordinances and by-laws, manufactured buildings, manufactured building components or manufactured homes may be sold for, delivered to, or installed on, building sites located in any jurisdiction of this State if such buildings, building components or manufactured homes have been approved and certified pursuant to the applicable Codes and 780 CMR 110.R3.

**110.R3.1.4 Administration and Enforcement.** The BBRS and the State Enforcement Agencies shall enforce all provisions of 780 CMR 110.R3. The State Enforcement Agencies and the Local Enforcement Agencies shall have the responsibility for evaluating building systems and performing inspections of manufactured buildings and manufactured building components to enforce compliance with 780 CMR 110.R3 and the applicable codes. The State Enforcement Agencies and the local enforcement agencies shall deem acceptable manufactured buildings, manufactured building components, building systems and compliance assurance programs labeled and certified by inspection agencies approved by the BBRS and those manufactured homes certified as in conformance with the Federal standards by the application of the applicable required HUD label.

**110.R3.1.5 Authorization of Third-party Inspections.** Upon recommendation of the State Enforcement Agencies, the BBRS may authorize inspection agencies, sometimes referred to as third party inspection agencies, to perform all or part of the inspection and certification of manufactured



buildings and manufactured building components, building systems and compliance assurance programs, including either or both the issuance and the attachment of labels thereto. The BBRS may suspend or revoke such authorization for cause.

**110.R3.1.6 Approvals and Compliance.** Upon the recommendation of the State Enforcement Agencies, the BBRS may approve building systems and compliance assurance programs which comply with the codes, standards, specifications, requirements and 780 CMR 110.R3.

**110.R3.1.7 Time of Manufacture.** For purposes of 780 CMR 110.R3, a manufactured building, manufactured building component or manufactured home is deemed to be manufactured at such time as the label as herein described is duly issued label is attached to it in accordance with the approved compliance assurance program.

**110.R3.1.8 Retroactive Changes.** No changes in the codes, standards, specifications and requirements of 780 CMR 110.R3 shall apply retroactively.

**110.R3.1.9 Amendments.** The State Administrative Agencies shall notify the BBRS, and the BBRS shall notify all interested parties including State Enforcement Agencies, inspection agencies, manufacturers with approved building systems, and local governmental jurisdictions of all amendments to 780 CMR 110.R3, and each manufacturer shall have no more than 180 days following the sending of notification to submit to the BBRS compliance assurance program revisions in order to comply with such amendments. Where imminent danger to life safety is involved, the State Administrative Agencies may require that immediate effect be given such amendments to the codes, standards, specifications and requirements so adopted.

## **780 CMR 110.R3.2 COMPLIANCE ASSURANCE PROGRAMS**

**110.R3.2.1 Approval.** In order to obtain approval for manufactured buildings or manufactured building components a manufacturer shall submit a building system for evaluation to the BBRS for approvals in accordance with 780 CMR 110.R3.

**110.R3.2.2 Suitability.** Prior to a full evaluation, the State Enforcement Agencies shall determine that building systems and/or the application for approval of the compliance assurance program submitted to it are suitable for processing. In the event that the application is found to be unsuitable for processing, the applicant shall be notified in writing of such unsuitability and the basis thereof, within 30 days of the date the application is received by the BBRS. In such event, all but \$25.00 of the fee will be returned and the findings of unsuitability will be without prejudice. Any subsequent submission shall be treated as a new application.

**110.R3.2.3 Requisites.** The State Enforcement Agencies may require tests to determine whether a compliance assurance program meets the codes, standards and requirements of the evaluation of plans, specifications and documentation. The procedures used shall be reviewed and evaluated by the BBRS in accordance with 780 CMR 110.R3. The costs of such tests shall be borne by the applicant.

**110.R3.2.4 Notification of Disapproval.** In the event a compliance assurance program is disapproved by the BBRS, the BBRS shall notify the applicant with a written explanation of the reasons for such disapproval thereto.

**110.R3.2.5 Approval – Evidence.** Approval of a compliance assurance program shall be evidenced by a letter of certification issued by the BBRS.

**110.R3.2.6 Approval – Report.** The State Enforcement Agencies shall prepare and the BBRS shall issue to the applicant a building system approval report which shall include therein any conditions imposed for its use.

**110.R3.2.7 Approval – Variations.** A building system and compliance assurance program or any amendment there to which has been approved, shall not be varied in any way without prior written authorization by the BBRS. All amendments shall be in writing and shall be made a part of the written record of the approval.

**110.R3.2.8 Amendments – Proposed.** Amendments to compliance assurance programs may be proposed by submitting to the BBRS for its approval, appropriate plans, specifications, or documentation showing the effect of the proposed amendment on each building system and the required fee.

**110.R3.2.9 Compliance Assurance Program.** A manufacturer shall obtain approval from the BBRS of a compliance assurance program for his building system. Buildings or building components shall be manufactured in accordance with an approved program in order to be certified. Compliance assurance programs shall be submitted to the BBRS for its approval in accordance with 780 CMR 110.R3.

## **780 CMR 110.R3.3 CERTIFICATION**

Manufactured buildings or manufactured building components or manufactured homes, accepted by the State Enforcement Agencies and an inspection agency as having been manufactured according to an approved building system and an approved compliance assurance program, shall be certified by the BBRS upon the recommendation of the State Enforcement Agencies as complying with the requirements of the applicable codes and 780 CMR 110.R3. Certification shall be evidenced by the issuance of a label by the Board of Building

Regulations and Standards and by attachment of the label to each certified manufactured building or manufactured building component (or groups of components).

**110.R3.3.1 Manufacturer’s Data Plate.**

**110.R3.3.1.1 Contents.** The following information shall be placed directly or by reference on one or more permanent manufacturer’s data plates in the vicinity of the electrical distribution panel, or in some other designated location acceptable to the State Enforcement Agencies, on the manufactured building or manufactured building component where it will be readily accessible for inspection.

1. Manufacturer’s name and address;
2. Serial number of the unit;
3. Label serial number;
4. Name and date of applicable building, plumbing, gas and electrical codes and issue of their accumulative supplements complied with;
5. Model designation and name of manufacturer of major factory-installed appliances;
6. Identification of permissible type of gas for appliance and directions for water and drain connection;
7. Snow, wind, seismic and other live loads;
8. Electrical ratings - instructions and warnings on voltage;
9. Special conditions or limitations on use of the units, including unsuitability for areas in which specified environmental conditions prevail;
10. Methods of assembly or joining multiple units;
11. Type of construction, including fire rating, occupancy class, and interior finish flame spread class;
12. Building height and story limitation;
13. Floor area; and
14. Minimum side yard requirements for fire rating.

If, in the opinion of the State Administrative Agencies, the shape or size of a building component is such that this information cannot be attached to it permanently, the information may be placed in a manual crated with the component or on a tag attached to the crate in which the component is shipped, if the information is not such that the future occupant of the building should know it. If the occupant will need to know the information, it shall be contained in a manual which shall be presented to the occupant upon transfer of possession. If life safety is involved, the item in question shall be plainly labeled.

**110.R3.3.2 Labels.** Each manufactured building or manufactured building component which is certified pursuant to the applicable codes and 780 CMR 110.R3, shall have permanently attached thereto, in

a visible location as shown on the approved building system, an approved label which cannot be removed therefrom without destroying such label. Said label shall be made part of the permanent record for the manufactured building or manufactured building component, copies of which shall be retained by the manufacturer, the BBRS and the municipal and/or state building department where the manufactured building product is installed. Manufactured building that are to be used as a re-locatable unit, shall be issued a new label upon submission of a new Third Party Inspection Agency Compliance Report in attestation that the re-locatable unit has been inspected and meets the requirements of all applicable Massachusetts codes and requirements of 780 CMR 110.R3.

**110.R3.3.2.1 Contents.** An approved label shall bear the following information.

1. The statement “This label certifies that this building (or building component) has been manufactured in accordance with an approved building system and compliance assurance program which has been approved by the Commonwealth of Massachusetts Board of Building Regulations and Standards. Said manufactured building or manufactured building component has been inspected by \_\_\_\_\_;  
*Name of Third-Party Inspection Agency*
- \_\_\_\_\_;  
*Name of Third-Party Inspector*
- a. Label serial number.
- b. Building system approval number.
- c. Manufacturer’s serial number.
- d. The words “See data plate located on.”
- f. Date of manufacture.

At the direction of the BBRS labels and data plates may be limited in size and content for components whose shape and size does not permit the full information to be placed thereon.

**110.R3.3.2.2 Issuance of Labels.** The approved label shall be issued by the BBRS in accordance with the following.

1. If the BBRS delegated the issuance of labels to an inspection agency, the agency shall be required to obtain approval from the BBRS for the manner in which they are handled;
2. Labels must be serially numbered;
3. A manufacturer’s compliance assurance program submitted in accordance with 780 CMR 1 10.R3 shall include requirements for issuance, possession of, attachment of, and accounting for all labels to assure that labels are attached only to manufactured buildings, manufactured building components, or manufactured homes manufactured pursuant to

an approved building system and inspected pursuant to an approved compliance assurance program; and

4. Upon request of the inspection agency, the BBRS may determine that the manufacturer's record of compliance is such that the inspection agency need not maintain an inspector in a given plant at all times, inspection agency may entrust labels to the custody of one or more employees of the manufacturer, who shall be charged with controlling the use of the such labels. Such employees shall not be given custody of more labels than are necessary. If the conditions of custody are violated, the BBRS or an inspection agency shall immediately regain possession of all labels that have not been applied to the manufactured buildings or manufactured building components and shall take such further action with respect to future labeling, as it may deem necessary to assure compliance with the applicable codes and 780 CMR 110.R3.

**110.R3.3.3 Records of Labels.** Permanent records shall be kept of the handling of all labels, indicating at least how many labels have been applied issued to manufacturers for their to manufactured buildings or manufactured building components (or groups of components), and which labels have been applied assigned to which buildings or building components, the disposition of any damaged or rejected labels, and the location and custody of all unused labels. Such records shall be maintained by the manufacturer or by the inspection agency and a copy of such records covering attachment of each label shall be sent to the Board of Building Regulations and Standards on the tenth of each month and the BBRS shall forward all such records to the State Enforcement Agencies.

**110.R3.3.4 Attachment of Labels.** The inspection agency shall attach in numerical sequence labels to manufactured buildings or manufactured building components manufactured in accordance with an approved building system and meeting the requirements of an approved compliance assurance program.

Manufacturers shall attach labels in the same manner to manufactured buildings or building components manufactured in accordance with an approved building system and meeting the requirements of an approved compliance assurance program.

Manufacturers shall attach labels in the same manner to manufactured buildings or building components manufactured in accordance with a approved compliance assurance program, if custody of the labels has been entrusted to them in accordance with 780 CMR 110.R3.3.3.4.

**110.R3.3.5 Suspension and Revocation.** The

BBRS may suspend or revoke, or cause to be suspended or revoked, the certification of any manufactured building or manufactured building component which the State Enforcement Agencies or an inspection agency finds not to comply with the applicable codes or 780 CMR 110.R3, or which has been manufactured pursuant to a building system or a compliance assurance program for which approval has been suspended or revoked, or which has not been manufactured in accordance with the approved compliance assurance program. The State Enforcement Agencies shall withhold or void a label or shall remove or cause to be removed, labels from any such manufactured building, manufactured building component or manufactured home until it is brought into compliance with the applicable codes and 780 CMR 110.R3. Notice of suspension or revocation of certification shall be in writing with the reasons for suspension or revocation clearly set forth.

1. Upon suspension or revocation of the approval of any building system or compliance assurance program, no further labels shall be issued, assigned and/or attached to any manufactured buildings or manufactured building components manufactured pursuant to the building system or compliance assurance program with respect to which the approval was suspended or revoked. Upon termination of such suspension or revocation, labels may again be issued and/or assigned be attached to the manufactured building or manufactured building components manufactured after the date approval was reinstated. Should any building or building component have been manufactured during the period of suspension or revocation, it shall not be issued a label unless the State Enforcement Agencies or inspection agency have inspected such building or building component and is satisfied that all requirements for certification have been met. If the State Enforcement Agency acts under 780 CMR 110.R3.3.5, it must notify the inspection agency.

2. The manufacturer shall return all labels allocated for a manufactured building or manufactured building component to the BBRS no later than 30 days from the effective date of any suspension or revocation of the State Enforcement Agencies or inspection agency, of the building system or compliance assurance program pursuant to which the manufactured building or manufactured building component is being manufactured. The manufacturer shall also return to the BBRS all labels which it determines for any reason are no longer needed.

**110.R3.3.6 Variations of Certified Units.** Manufactured buildings, manufactured building components or manufactured homes certified and labeled pursuant to the applicable codes and 780 CMR 110. R3 shall not be varied in any way prior to the issuance of a certificate of occupancy

without resubmission to the BBRS for its approval of the variation and of the unit which includes the variation. The State Enforcement Agencies, Local Enforcement Agencies or an inspection agency shall inspect the manufactured building, manufactured building component or manufactured home wherever it is located and such inspection may include such tests or destructive or nondestructive disassembly as the State Enforcement Agencies or an inspection agency deems necessary to assure compliance with the applicable Codes and 780 CMR 110.R3. Local Enforcement Agencies may be designated by the BBRS or State Enforcement Agencies as inspection agencies for such purposes.

#### **780 CMR 110.R3.4 INSPECTION BY THE STATE ENFORCEMENT AGENCIES OR THEIR AGENTS**

The State Enforcement Agencies shall make, or cause to be made, such inspections of the entire processing of manufacturing, certifying, handling, storing and transporting of manufactured buildings or manufactured building components produced pursuant to approved building systems as they deem necessary.

**110.R3.4.1 Inspection of Facilities.** As part of the process of evaluating building systems and compliance assurance programs, the State Enforcement Agencies shall inspect, or cause to be inspected, the manufacturing facilities in which the buildings or building components are to be manufactured.

**110.R3.4.2 Inspection According to Compliance Assurance Programs.** The State Enforcement Agencies or an inspection agency shall make such inspections as may be required by an approved compliance assurance program, or as may be deemed necessary by the State Enforcement Agencies.

**110.R3.4.3 Inspection of Damaged Components.** Prior to the issuance of a certificate of occupancy, the State Enforcement Agencies or an inspection agency shall inspect, or cause to be inspected, certified manufactured buildings or manufactured building components which it determines to have been sufficiently damaged after certification to warrant such inspection and to take such action with regard to such buildings or building components as is authorized hereof, or as is otherwise necessary to eliminate dangerous conditions. The local enforcement agencies may be designated by the BBRS or the State Enforcement Agencies as the inspection agency.

**110.R3.4.3.1 Repairing Damaged Components.** The State Enforcement Agencies or an inspection agency shall require manufactured buildings or manufactured building components which are so damaged as to no longer comply with the applicable Codes and 780 CMR 110.R3 to be

repaired and made to comply within a reasonable time; or if they are so damaged that they cannot be brought into compliance, the State Enforcement Agencies or inspection agency shall order that the labels be removed voided for from such buildings, building components or manufactured homes. A report under 780 CMR 110.R3.4 shall be filed with the inspection agency, BBRS and State Enforcement Agency.

**110.R3.4.3.2 Irreparably Damaged Components.** Irreparably damaged buildings or building components shall be disposed of by the manufacturer.

**110.R3.4.4 Monitoring Inspection Agency.** The State Enforcement Agencies or their designated agents shall examine each approved inspection agency, at any reasonable time, and without prior announcement, in order to monitor the reliability of each agency and of its monitoring of each compliance assurance program. Each such examination shall investigate the adequacy of all procedures used by the agency in monitoring compliance assurance programs including inspection, tests, production methods, process controls, operator performance, materials, receipts, storage and handling, workmanship standards, records and all other activities which implement the compliance assurance program in the manufacturing facility, during transport, on-site, and at critical subcontractors' facilities. The results of such examinations shall be filed with the office of the BBRS. Copies of such reports shall be sent to the inspection agency and the State Enforcement Agencies. Inspection agencies shall be specifically notified by the BBRS of any deficiencies and of the manner and time by which such deficiencies must be eliminated. If deemed necessary by the State Enforcement Agencies, an inspection agency's approval may be suspended or revoked by the BBRS as provided.

**110.R3.4.4.1 Prior to Approval.** Such examinations may also be conducted before approving an inspection agency.

**110.R3.4.5 Inspection by Disassembly.** No inspection entailing disassembly, damage to or destruction of certified manufactured buildings, manufactured building components or manufactured homes shall be conducted except to implement 780 CMR 110.R3.

#### **780 CMR 110.R3.5 LOCAL ENFORCEMENT AGENCY PROCEDURES AND INSPECTIONS**

**110.R3.5.1 Issuance of Building Permits.** Upon application and in conformity with the provisions of 780 CMR, the building official shall issue building permits for installation of certified manufactured buildings, manufactured building components or manufactured housing.

**110.R3.5.1.1 Licensed Construction**

**Supervisors and Certified Installers.** A construction supervisor, duly licensed in accordance with 780 CMR 110.R5, shall, in accordance with 780 CMR 108.3.5, act as the agent for the owner for the purpose of applying for and obtaining any and all building permits required for the field erection of all one or two family manufactured dwellings subject to the provisions of 780 CMR and 780 CMR 110.R3 as applicable.

As part of the building permit application process, the licensed construction supervisor shall submit to the building official, in writing, the name of the installer, who shall be duly certified by the manufacturer to install said manufacturer's product, and is identified as a *certified installer of manufactured buildings* (certified installer) by said manufacturer. The certified installer shall be responsible for the safe and proper placement and connection of the manufactured home units in accordance with 780 CMR, 780 CMR 110.R3 and the specialized codes as listed in 780 CMR 100.00 under *CMR*.

The licensed construction supervisor shall be responsible for the construction of the foundation system, and all pertinent site work, in accordance with 780 CMR and 780 CMR 110.R3. The licensed construction supervisor shall provide at least 48 hours notice to the BBRS and the local building official before the placement and connection of such units shall begin. An application to local enforcement agencies for an appropriate permit shall, in addition to any other requirements, contain the following information.

**110.R3.5.1.2 Permit Application—Statement of Content.** A statement that the work to be performed under such permit is to include the installation of a certified manufactured building, manufactured building component or manufactured home in accordance with the provisions of the applicable codes, the statement is to be signed by the applicant or his agent, with the appropriate address.

**110.R3.5.1.3 Permit Application – Building System.** A true copy of the approved building system with respect to which the manufactured building or manufactured building component was manufactured or is to be manufactured, where one has not previously been furnished to that local enforcement agency.

**110.R3.5.1.4 Permit Application – Building System Approval.** A copy of the Building System Report, as approved by the BBRS, where it has not previously been furnished to the Local Enforcement Agency.

**110.R3.5.2 Inspection of Site Preparation and Service Connections.** Appropriate local enforcement agencies shall inspect site preparation work including foundations, not within the scope of the approval and certification, and the structural, mechanical, plumbing and electrical connections

among units, for compliance with applicable law, rules and regulations.

**110.R3.5.3 Compliance with Instructions.** Appropriate local enforcement agencies shall inspect all manufactured buildings, manufactured building components or manufactured homes upon, or promptly after, installation at the building site to determine whether all instructions in the Building System Approval Report or conditions listed on the manufacturer's data plate have been followed.

This may include tests for tightness of plumbing and mechanical systems, and for malfunctions in the electrical system and a visual inspection for obvious nonconformity with the approved building system.

**110.R3.5.3.1 Disassembly Prohibited.** Unauthorized destructive disassembly of certified buildings and building components and mobile homes shall not be performed in order to conduct such tests or inspections, except as provided in 780 CMR 110.R3.3.4.3, nor shall there be imposed standards or test criteria different from those adopted by the State Enforcement Agencies or specified in the Building System Approval Report, or the "HUD's" Manufactured Home Construction and Safety Standards.

**110.R3.5.3.2 Opening Panels.** Nondestructive disassembly may be performed only to the extent of opening access panels and cover plates.

**110.R3.5.4 Noncomplying New Units.** Local enforcement agencies shall report to the BBRS in accordance with 780 CMR 110.R3.5.6 any non-complying manufactured buildings and building components.

**110.R3.5.5 Certificates of Occupancy.** Appropriate local inspectors shall issue certificates of occupancy for certified manufactured buildings and manufactured homes containing certified building components which otherwise comply with all the applicable codes, after they have been installed and inspected pursuant to the applicable codes and 780 CMR 110.R3, provided that any manufactured building or manufactured building component found not to comply with the Building System Approval Report or any manufactured home found not to comply with "HUD's" Manufactured Home Construction and Safety Standards shall be brought into compliance before such certificate of occupancy shall be issued.

**110.R3.5.6 Reporting of violations to department of public safety.** When any local enforcement agency is making an inspection and finds violations or suspected violations, it shall report the details of the violations in writing to the BBRS. Where violations are hazardous to occupants, a certificate of occupancy shall not be issued and the building shall not be occupied before such hazards are corrected. If the violations are not hazardous, a temporary certificate of occupancy may be issued.

### **780 CMR 110.R3.6 FEES**

#### **110.R3.6.1 Deposit for Application to the BBRS.**

A deposit shall be required upon application to the BBRS to perform any of the functions in 780 CMR 110.R3.

**110.R3.6.2 Establishment of Fees.** Fees charged by the BBRS for functions performed shall be in accordance with the fee schedule established by the State Administrative Agencies as specified in 780 CMR 110.R3.18.

### **780 CMR 110.R3.7 NOTIFICATION OF CHANGES IN NAME, ADDRESS, OWNERSHIP OR LOCATION**

#### **110.R3.7.1 Notification by Manufacturers.**

Manufacturers shall notify the BBRS in writing within ten days of any of the following occurrences:

1. The corporate name is changed;
2. The main address of the company is changed;
3. There is a change in 25% or more of the ownership interest of the company within a 12-month period;
4. The location of any manufacturing facility is changed;
5. A new manufacturing facility is established; or
6. There are changes in principal officers of the firm.

The BBRS shall notify the State Administrative Agencies of such occurrences.

#### **110.R3.7.2 Notification by Inspection Agencies.**

Inspection agencies shall notify the BBRS in writing within ten days of any of the following occurrences.

1. The company name is changed;
2. The main address of the company is changed;
3. There is a change in 25% or more of the ownership interest or control of the company within a 12-month period;
4. The location of any testing facility is changed;
5. A new testing facility is established; or
6. There are changes in principal officers and key supervisory and responsible personnel of the firm.

The BBRS shall notify the State Administrative Agencies of such occurrences.

### **780 CMR 110.R3.8 PROPRIETARY INFORMATION**

All information relating to building systems and compliance assurance programs which the manufacturer or other party considers proprietary shall be so designated by him at the time of its submission, and shall be so held by the State Enforcement Agencies and State Administrative Agencies, except as the State Administrative Agencies determine in each case, that disclosure is necessary to carry out the purposes of the applicable codes and 780 CMR 110.R3.

## ***PART II—REQUIREMENTS FOR SUBMISSION OF BUILDING SYSTEMS AND COMPLIANCE ASSURANCE PROGRAMS***

### **780 CMR 110.R3.9 BUILDING SYSTEMS**

Building systems shall meet the requirements set forth below to be evaluated for compliance with the standards, specifications and requirements adopted by the State Administrative Agencies.

#### **110.R3.9.1 General Requirements.**

**110.R3.9.1.1 Plans, Specifications and Documentation.** Building systems, including all plans, specifications and other documentation, shall be submitted in quadruplicate to the BBRS who shall act as the depository and disbursing agent of all such items. The BBRS shall forward to the appropriate State Enforcement Agencies plans, specifications and documentation for their recommendations.

**110.R3.9.1.2 Form and Fees.** Building systems shall be submitted in the form prescribed by the BBRS and shall be accompanied by all required fees.

**110.R3.9.1.3 Identification.** All documents submitted with the application shall be identified to indicate the manufacturer's name, office address and address of the manufacturing facility.

**110.R3.9.1.4 Plans Showing Elements.** Plans shall be submitted showing all elements relating to specific systems on properly identifiable sheets.

**110.R3.9.1.5 Application—Approved Architect or Engineer.** Each building system application shall bear the signature and seal of an approved registered architect or registered professional engineer certifying that the building system complies with the applicable codes and standards promulgated herein.

**110.R3.9.1.6 On-site Work Identified.** All work to be performed on-site, including connection of all systems, equipment and appliances, shall be identified and distinguished from work to be performed in the manufacturing facility.

**110.R3.9.1.7 Space for State Administrative Agencies Approval Stamp.** A three inch × four inch blank rectangular space shall be provided on all sheets of plans near the title box for the BBRS's stamp of approval.

**110.R3.9.1.8 Material Grade and Quality.** Grade, quality and identification of all material shall be specified.

**110.R3.9.1.9 Calculations and Test Reports.** Design calculations and test reports shall be specified.

**110.R3.9.1.9.1 Drawings to Scale.** Drawings shall be drawn to scale and be legible.

**110.R3.9.1.9.2 Label and Data Plate Location.** Drawings shall indicate the location

of the data plate.

**110.R3.9.1.9.3 Drawings Dated and Identified.** Drawings shall be dated and identified. The number of sheets in each set shall be indicated.

**110.R3.9.2 Required Construction Details.** Building systems for manufactured buildings shall provide or show, but not be limited to, the details listed below including the method of their testing or evaluation, or both. These requirements shall apply to the building systems for building components only to the extent deemed necessary by the State Enforcement Agencies to permit a proper evaluation of the building component.

**110.R3.9.2.1 General.**

1. Details and methods of installation of manufactured buildings or manufactured building components on foundations and/or to each other.
2. All exterior elevations.
3. Cross sections as necessary to identify major building components.
4. Details of flashing, such as at openings and at penetrations through roofs and subcomponent connections. Indicate flashing material and gauge to be used.
5. Attic access and attic ventilation.
6. Exterior wall, roof and soffit material as well as finish.
7. Interior wall and ceiling finish material.
8. Fire separation walls.
9. Sizes, locations and types of doors, windows and fire/smoke detectors.
10. Recommended foundation plans, vents and underfloor access.

**110.R3.9.2.2 Building Classification.**

1. Occupancy or use.
2. Area, height, and number of stories.
3. Type of construction.
4. Fire resistance ratings.

**110.R3.9.2.3 Space and Fire Safety.**

1. Details of fire resistance rated assemblies for all stairway enclosures, doors, walls, floors, ceilings, partitions, columns, roof and shaft enclosures.
2. Detail of Fire Protection Systems.
3. Details as to width of all aisles, exits, corridors, passageways and stairway enclosures.
4. Toxicity and flame spread classification of finished materials.

**110.R3.9.2.4 Structural Detail Requirements.**

1. Engineer's calculations of structural members, where appropriate.
2. Structural and framing details of all floors, roof and walls.

5. Location of vents above roofs and required

3. Details and stress diagrams of roof trusses.
4. Details of reinforcing steel.
5. Complete loading schedule.
6. Column loads and column schedule.
7. Lintel schedule.
8. Size, spacing and details of all structural elements.
9. Grade or quality of all structural elements (lumber, steel, etc.).
10. Elevation of structural elements, walls or sections thereof, providing resistance to vertical loads or lateral forces.
11. Complete details of all structural connections.

**110.R3.9.2.5 Mechanical Detail Requirements.**

1. Location of all equipment and appliances. Indicate equipment and appliances listed or labeled by approved agencies.
2. Heat loss and heat gain calculations.
3. Manufacturer's name, make, model, number, BTU, input and output rating of all equipment and appliances, as appropriate, or the equal thereof.
4. Duct and register locations, sizes, and materials.
5. Clearances from combustible material or surfaces for all ducts, flues and chimneys.
6. Method of providing required combustion air and return air.
7. Location of flues, vents and chimneys and clearances from air intakes and other vents and flues.
8. Details regarding dampers in ducts penetrating fire separations.
9. Complete drawings of fire sprinkler system, standpipe system or smoke/fire alarm system as required.
10. Detail of elevator or escalator system, including method of emergency operation.
11. Duct and piping insulation thickness.
12. Ventilation air calculations.

**110.R3.9.2.6 Plumbing Detail Requirements.**

1. Plan or schematic drawing of the plumbing layout, including but not limited to, size of piping, fitting, traps and vents, cleanouts and valves, gas, water, and drainage system.
2. Plumbing materials, and location of all equipment and appliances to be used. Indicate fixture unit capacity of system(s) and the make, model, and rating/capacity of equipment and appliances. Indicate equipment and appliances listed or labeled by approved agencies.
3. Make and model of safety controls (such as for water heaters), their location, and whether listed or labeled by approved agencies.
4. How piping is to be supported and intervals of support.

clearances, including but not limited to

clearances from air intakes, other vents and flues.

6. Methods of testing.

**110.R3.9.2.7 Electrical Detail Requirements.**

1. Plan of service equipment, including service entrance, conductors, service raceway and clearances above ground and above structures.
2. Method and detail for grounding service equipment.
3. Single line diagram of the entire electrical installation.
4. Load calculations for service and feeders.
5. Sizes of all feeders and branch circuits.
6. Size, rating and location of main disconnect/overcurrent protective devices.
7. Method of interconnection between manufactured buildings or manufactured building components and location of connections.
8. Location of all outlets and junction boxes.
9. i. Method of mounting fixtures and wiring installations.
10. Lighting power calculations.

**780 CMR 110.R3.10 COMPLIANCE  
ASSURANCE PROGRAMS FOR  
MANUFACTURED BUILDINGS AND  
MANUFACTURED BUILDING  
COMPONENTS**

Compliance assurance programs shall be approved if they meet the requirements set forth in 780 CMR 110.R3.10. It is the manufacturer's responsibility to execute every aspect of this program. The manufacturer shall continue to be responsible for all corrective actions required and the contractual relationship between the manufacturer and the inspection agency shall not diminish such responsibility. The manufacturer shall cooperate with the inspection agency by providing the inspection agency with all necessary reports, information, documents, records, facilities, equipment, samples and other assistance for assuring compliance.

The manufacturer's compliance assurance program shall be submitted to the BBRS in the form of a compliance assurance manual which shall contain complete documentation of all compliance assurance activities of both the manufacturer and the inspection agency. The manual shall be comprehensively indexed, and shall treat the material listed here in detail, as follows.

**110.R3.10.1 Organization Requirements.**

1. A procedure for periodic revision of the manual;
2. An organizational structure for implementing and maintaining the compliance assurance program and its functional relationship to other elements of the organization structure of the

manufacturer, which structure shall provide for independence from the production department; Company officers and employees in charge of the compliance assurances program must be identified, and their training and qualifications specified;

3. A uniform system of audit (in-depth analysis of program effectiveness and means to identify deficiencies) to monitor program performance periodically;

4. Complete and reliable records of manufacturing and site operations, if any (suitable means of storage, preservation and accessibility of copies of forms to be utilized shall be included);

5. A system to control changes in production or inspection procedures;

6. A system to assure that working drawings and specifications, working instructions and standards, procurement documents, etc. conform to the approved building system;

7. A serial number system for buildings or building components; and

8. The method of safekeeping, handling and attaching labels and identification of those employees responsible therefor.

**110.R3.10.2 Materials Control.**

1. Procedure to assure effective control over procurement sources to ensure that materials, supplies and other items used in production and site operations, if any, conform to the approved plans, specifications and quality requirements;

2. Procedures for inspection of materials, supplies and other items at the point of receipt;

3. Method of protection of materials, supplies and other items against deterioration prior to their incorporation in the certified buildings or building component; and

4. Provision for disposal of rejected materials, supplies and other items.

**110.R3.10.3 Production Control.**

1. Procedures for timely remedial and preventive measures to assure product quality;

2. Provision, maintenance and use of testing and inspection;

3. Provision for frequency of sampling inspections;

4. Provision of necessary authority to reject defective work and carry out compliance assurance functions, notwithstanding any conflict with production department goals and needs;

5. A schematic of the manufacturing operation showing the location of inspection stations, and "hold" points for mandatory inspection characteristics;

6. Inspection and test procedures, including accept/reject criteria and mandatory inspection characteristics;

7. Standards of workmanship; and

8. Provision of disposal of rejects.



**110.R3.10.4 Finished Product Control.**

1. Procedure for final inspection of all manufactured buildings or manufactured building components before shipment to the site or storage point, including identification and labeling handling;
2. Procedures for handling and storing all finished manufactured buildings or manufactured building components, both at the manufacturing plant or other storage point and after delivery to the building site;
3. Procedures for packing, packaging and shipping operations and related inspections; and
4. Procedures for transportation, including all measures to protect against damage while in transit, and setting forth the modes of transportation to be utilized and the carrying equipment and procedures.

**110.R3.10.5 Installation Control.**

1. Installation procedures including component placement, equipment and procedures, field erection and finishing work, utility connection instructions and all appropriate on-site inspection criteria and test descriptions; and
2. Organizational provisions for field repair and disposal of rejects.

**110.R3.10.6 Permission for Inspection.** The manufacturer shall provide the BBRS with written permission, signed and notarized, for the State Enforcement Agencies to inspect his manufacturing facilities, his products, and building sites under his control at any reasonable time without prior announcement.

**110.R3.10.7 Inspections by the State Enforcement Agencies.** The Compliance Assurance Manual shall contain detailed plans for inspections by the State Enforcement Agencies or inspection agency.

***PART III—APPROVAL OF INSPECTION AGENCIES***

**780 CMR 110.R3.11 REQUIREMENTS FOR SUBMISSION**

An inspection agency seeking approval shall submit a quadruplicate application to the BBRS which shall include the items listed in 780 CMR 110.R3.1 1.

**110.R3.11.1 Articles of Incorporation.** The original Articles of Incorporation of the agency and all subsequent amendments thereto, as filed in the State of Incorporation.

**110.R3.11.2 Bylaws.** The bylaws of the organization, if any.

**110.R3.11.3 Business Affiliations of Members.** The names, addresses and business affiliations of all members of the Board of Directors and of top management personnel.

**110.R3.11.4 Stock.** Individual interests representing more than 10% of the outstanding ownership reflecting the financial interest of the agency's Board of Directors and top management personnel.

**110.R3.11.5 Certifications.** Certification by the agency that.

1. Its Board of Directors, as a body, and its technical personnel, as individuals, can exercise independence of judgment; and
2. Its activities pursuant hereto will result in no financial benefit to the agency via stock ownership, or other financial interests in any producer, supplier or vendor of products involved, other than through standard published fees for services rendered.

**110.R3.11.6 Experience of Directors.** Names, years of experience, state in which professionally registered and other qualifications of the directors of inspection or evaluation programs.

**110.R3.11.7 Experience of Employees.** Names and years of experience of employees practicing in the following disciplines. architecture, structural engineering, mechanical engineering, electrical engineering, fire protection and other branches of engineering; the state in which each is registered and the service each performs.

**110.R3.11.8 Organization Chart.** An organization chart showing management and supervisory persons including the number of graduate engineers and architects, and the names of all consulting engineers or architects, designating which are full-time and which are part-time employees.

**110.R3.11.9 Number and Location of Personnel.** Number and location of factory inspectors, supervisors, and other technicians, including evaluators of factory inspectors and the qualifications of each specialized group, including records of work experience, licenses held and other pertinent qualifications; description of types of work each group and each technician is expected to perform and the qualifications of each group and each technician to perform the work assigned.

**110.R3.11.10 Employees Training Programs.** An outline of the training program, if any, of the agency to assure that all inspectors, evaluators and other technicians are properly trained to do each job assigned to them.

**110.R3.11.11 Employee Supervision.** An outline of the general procedures for supervision of inspectors and evaluators, including checking and evaluation of their work.

**110.R3.11.12 Non-employees Relationships.** All engineers, technicians and other personnel who will perform services for the organization but who are not employees of the organization, and the supervisory and other relationships which each will have to the

agency.

**110.R3.11.13 Products Evaluated.** Type of products, components, equipment, structures and other items which the organization has evaluated, tested or inspected and the number of years of experience the organization has had with each, and the type of codes, standards, specifications and requirements with respect to which the organization has had experience in providing evaluation, inspection or testing services, and the number of years experience with each.

**110.R3.11.14 Frequency Capability.** Description of the frequency with which the agency is capable of performing inspections or evaluations.

**110.R3.11.15 State approved in.** List of the states in which the agency is now approved to inspect or evaluate manufactured buildings or manufactured building components or parts thereof for compliance with approved building systems.

#### **780 CMR 110.R3.12 PROCEDURES FOR APPROVING INSPECTION AGENCIES**

**110.R3.12.1 Qualifications.** Upon the recommendation of the State Enforcement Agencies, the BBRS may approve inspection agencies which meet the requirements of the applicable codes and 780 CMR 110.R3.0 and which the State Administrative Agencies find otherwise qualified to perform the functions proposed to be delegated to them.

**110.R3.12.2 Suitability of Application.** Prior to a full evaluation of an application for approval, the BBRS shall determine whether such application is unsuitable for processing. In the event the application is found to be suitable for processing, the applicant shall be notified in writing of such unsuitability and the basis thereof within 30 days of the date of the application is received by the BBRS. In such event, all but \$25.00 of the fee will be returned, and the rulings of unsuitability shall be without prejudice. Any subsequent submission shall be treated as a new application.

**110.R3.12.3 Approvals.** In the event of approval of the BBRS, an inspection agency shall be notified by a letter from the BBRS indicating such approval and stating specifically the functions which the applicant has been approved to perform. Such approval shall not constitute the actual delegation of such functions.

#### **780 CMR 110.R3.13 SUSPENSION AND REVOCATION**

**110.R3.13.1 Grounds.** The BBRS may suspend or revoke its approval of any inspection agency if the approval was issued in error; was issued on the basis of incorrect information; was issued in violation of any of the applicable Codes or 780 CMR 110.R3; if the inspection agency violates any of the applicable

Codes or 780 CMR 110.R3, if examination discloses that the agency failed to perform properly; or for such other cause as may be deemed sufficient by the State Enforcement Agencies to warrant such action.

#### **110.R3.13.2 Procedures.**

**110.R3.13.2.1 General.** If the BBRS suspends or revokes the approval of an inspection agency, the inspection agency shall be given notice in writing from the BBRS of the suspension or revocation with the reasons therefore set forth therein. Manufacturers being evaluated or inspected by such agencies, all local enforcement agencies within this State, and the State Enforcement Agencies shall also be notified in writing of such suspension or revocation. Such notices shall contain instructions to the manufacturer and to the local enforcement agency as to the procedures to be followed regarding manufactured buildings or manufactured building components previously certified by an agency whose approval has been suspended or revoked.

**110.R3.13.2.2 Records.** An inspection agency whose approval has been suspended or revoked shall within 90 days of the suspension or revocation deliver to the custody of the BBRS the originals of all records required to be maintained during the course of the inspection agency's operations pursuant to the applicable codes and 780 CMR 110.R3.0.

**110.R3.13.2.3 Labels.** An inspection agency for which approval has been suspended or revoked shall within 90 days of the suspension or revocation deliver to the custody of the BBRS all labels in the agency's possession, under its control, or for which it is responsible pursuant to the applicable codes and 780 CMR 110.3.0.

### ***PART IV—APPEALS***

#### **780 CMR 110.R3.14 HEARINGS**

All hearings shall comply with applicable sections of the applicable codes and the Rules and Regulations thereof established for the purpose of appeal.

### ***PART V—SCHEDULE OF FEES***

#### **780 CMR 110.R3.15 ESTABLISHMENT**

The following is the SCHEDULE OF FEES established by the BBRS for certifying manufactured buildings or manufactured building components. Fees shall be made payable to the "Commonwealth of Massachusetts Board of Building Regulations and Standards" and shall accompany all applications for certification.

**110.R3.15.1 Compliance Assurance Programs and Building Systems.** An initial fee of \$1,200.00 shall be charged each manufacturer for its certified compliance assurance program for each plant

desiring certification. The maximum fee charged under 780 CMR 110.R3. 15 shall be \$1,200.00 for each manufacturing plant.

**110.R3.15.2 Third Party Inspection Agencies.** An initial fee of \$500.00 shall be charged to each third party inspection agency.

**110.R3.15.3 Annual Renewal Fees.**

1. One year from the date of certification of the manufacturer and every year thereafter certification is in effect, there shall be paid an annual renewal fee of \$650.00 for each such certification.
2. One year from the date of certification of the Third Party Inspection Agency, and every year thereafter certification is in effect, there shall be paid an annual renewal fee of \$500.00.

**110.R3.15.4 Labels.**

1. A fee of \$50.00 per unit of a manufactured building shall be charged for each label issued by the BBRS.

**Note:** A “unit” as used in 780 CMR 110.R3.15 shall mean any building or proportion thereof which is towed or shipped separately to be tied together at the site.

2. A fee of \$10.00 per building component shall be charged for each label issued by the BBRS for building components.
3. Lost or damaged Labels Upon satisfactory proof to the BBRS of lost or stolen labels, not the result of negligence, labels may be replaced at a cost of \$2.00 each.

**110.R3.15.5 Other Fees.** The BBRS reserves the right to charge other fees based on scope of services necessary to be performed.

NON-TEXT PAGE

## 780 CMR 110.R4

### LICENSING NATIVE LUMBER PRODUCERS

(Note: 780 CMR 110.R4 is unique to Massachusetts)

#### 780 CMR 110.R4.1 ADMINISTRATION

**110.R4.1.1 Scope.** The provisions of 780 CMR 110.R4 shall govern the licensing of native lumber producers.

**110.R4.1.2 Definitions.** The following words and terms shall, for the purposes of 780 CMR 110.R4 and as used elsewhere in 780 CMR, have the meaning indicated in 780 CMR 110.R4.1.2.

**BBRS.** State Board of Building Regulations and Standards.

**NATIVE LUMBER.** Native lumber is wood processed in the Commonwealth of Massachusetts by a mill registered in accordance with the regulations of the BBRS. Such wood is ungraded but is stamped or certified in accordance with the requirements of the *Sixth Edition of the Massachusetts State Building Code*, 780 CMR 2303.1.1. For the purpose this definition, native lumber shall be restricted to use in one-and two-story dwellings, barns, sheds, agricultural and accessory buildings and structures and other uses as permitted by 780 CMR 23.00.

**NATIVE LUMBER PRODUCERS.** Persons or corporations in the business of milling wood into native lumber within the Commonwealth of Massachusetts.

**PERSON.** Individual, partnership, corporation, trust, joint venture, etc.

**110.R4.1.3 Registration.** No person shall engage in the producing of native lumber for use in buildings or structures within the Commonwealth of Massachusetts unless registered by the BBRS.

**110.R4.1.4 Application for Registration.** Each person desiring registration as producer of native lumber shall apply and furnish evidence satisfactory to the BBRS that he is qualified to be registered in accordance with 780 CMR 110.R4. Qualification requirements shall be provided by the BBRS with the application form.

**110.R4.1.5 Registration Fee.** Applications shall be accompanied by a registration fee of \$50.00. This initial registration shall be valid for two years.

**110.R4.1.6 Renewals.** Registration shall be renewed every two years. Within 30 days before the expiration date of any such registration, the BBRS shall forward to each person an application form for renewal. Upon receipt of the completed form and fee, BBRS shall renew the registration for a period of two years or notify the applicant of reasons for refusal. *Any application for renewal of registration which has expired shall require the payment of a new registration fee.*

**110.R4.1.7 Prequalifying Agent.** State Inspectors of the Department of Public Safety shall act as agents of the BBRS to inspect native lumber producing facilities. Upon receipt of a completed application, the State Inspector shall inspect the facility for compliance with the required qualifications and make recommendation to the BBRS.

**110.R4.1.8 Penalties.** Any person who fails to comply with the requirements of 780 CMR 110.R4 or who falsifies an application shall be subject to the penalties and actions as prescribed in 780 CMR 118.0.

#### 780 CMR 110.R4. 2 REGISTRATION STAMP

**110.R4.2.1 Stamp.** Each person registered by the BBRS shall be issued a specific name and number for use in stamping or certifying the native lumber which he produces.

**110.R4.2.2 Stamp Contents.** Each stamp shall be a minimum of two inches by four inches with a minimum of 36 pt. letters and shall contain the following information.

1. Name of native lumber producer;
2. Registration number; and
3. Species of wood.

**110.R4.2.3 Stamp Use.** Each piece of native lumber produced shall bear the producer's stamp.

**110.R4.2.4 Stamp – Unlawful Use.** It shall be unlawful to use a stamp registered for a specific mill at any other mill.

**110.R4.2.5 Stamp – Manufacture.** Each producer shall be responsible for obtaining stamps made for their use in accordance with the requirements of the BBRS and 780 CMR 110.R4.

#### 780 CMR 110.R4.3 REVOCATION AND SUSPENSION PROCEDURES

**110.R4.3.1 Revocation and Suspension.** The BBRS on its own initiative or upon the recommendation of the State Inspector may suspend or revoke the registration of any such mill registered in accordance with 780 CMR 110.R4, 780 CMR or the standards of good practice. Notice of suspension or revocation of such registration shall be in writing with the reasons for suspension or revocation clearly set forth, and served in accordance with 780 CMR 118.6.

**110.R4.3.2 Notice and Conference.** Prior to suspension or revocation of the registration of any such mill so registered, written notice of such intent shall be served by the State Inspector in accordance

780 CMR: STATE BOARD OF BUILDING REGULATIONS AND STANDARDS  
THE MASSACHUSETTS STATE BUILDING CODE

with 780 CMR 118.6. Within ten calendar days of receipt of such notice, the affected mill may request a conference with the State Inspector who will hear facts and make their recommendations to the BBRS.

**110.R4.3.3 Effect of.** Upon suspension or revocation of the registration of any such mill so registered, such mill shall immediately cease engaging in the stamping or certifying of native lumber. The filing of an appeal with the State Building Code Appeals Board shall stay such

suspension or revocation subject to 780 CMR 122.3.2.

**780 CMR 110.R4.4 APPEALS**

**110.R4.4.1 Building Code Appeals Board.** Anyone aggrieved by the decision of the BBRS, or others may appeal to the State Building Code Appeals Board in accordance with 780 CMR 122.0.

## 780 CMR 110.R5

### CONSTRUCTION SUPERVISORS

(Note: 780 CMR 110.R5 is unique to Massachusetts)

780 CMR 110.R5 covers the licensing rules and regulations for construction supervisors as defined in 780 CMR. 780 CMR 110.R5 shall become in full force and effect on January 1, 2007.

#### 780 CMR 110.R5.1 GENERAL

**110.R5.1.1 Authority.** As authorized by M.G.L. c. 143, § 94(g) and (i), the BBRS establishes the rules and regulations for Licensing Construction Supervisors.

**110.R5.1.2 Definitions.** Unless otherwise expressly stated in 780 CMR the following terms shall, for the purpose of 780 CMR 110.R5, have the meaning indicated in 780 CMR 110.R5.1.2.

**BBRS.** State Board of Building Regulations and Standards.

**CONSTRUCTION SUPERVISOR.** A person of good moral character who is deemed qualified by the BBRS and has acquired a license by methods herein prescribed in one or more of the following categories:

#### CATEGORIES OF LICENSE.

1. **Unrestricted Construction Supervisor License (UCSL).** An Unrestricted Construction Supervisor License allows an individual to directly supervise persons engaged in the construction, reconstruction, alteration, repair, removal or demolition involving any activity regulated by 780 CMR in respect to the following types of buildings and structures. (Such term shall also apply to persons supervising themselves.)

- (a) Buildings of any use group as defined by 780 CMR 51.00 through 99.00 which contain less than 35,000 cubic feet (991 m<sup>3</sup>) of enclosed space;
- (b) One- and two-family dwelling buildings or any accessory building thereto, irrespective of size;
- (c) Buildings used for farm purposes;
- (d) Retaining walls less than ten feet (3048 mm) in height at all points along the wall as measured from the base of the footing to the top of the wall.

2. **Restricted Construction Supervisor License (RCSL).** An Restricted Construction Supervisor License allows an individual to directly supervise persons engaged in the construction, reconstruction, alteration, repair, removal or demolition involving any activity regulated by 780 CMR in respect to one- and two-family dwelling buildings and any accessory building thereto, irrespective of size. (Such term shall also apply to persons

supervising themselves.)

A licensed construction supervisor possessing at least a restricted category license shall be required for the installation of all manufactured one and two family homes as required by 780 CMR 51.00 through 99.00 and 780 CMR 110.R3, as applicable.

3. **Masonry Only Construction Supervisor License (MCSL).** A Masonry Only Construction Supervisor License allows an individual to directly supervise persons engaged in the construction, reconstruction, alteration, repair, removal or demolition involving the elements of fireplaces, chimneys, required means of egress stairs made of masonry, masonry retaining walls deemed to be a threat to public safety, health or welfare and that retain four feet or more of unbalanced fill, and other masonry structures for which a building permit is required, so long as such is not governed by construction control provisions of the Massachusetts Basic Building Code. Such term shall also apply to persons supervising themselves. (A masonry only license is not sufficient for the construction of masonry buildings. Supervision of such work would require possession of at least a restricted license, dependent upon the scope of work.)

4. **Residential Roof Covering Construction Supervisor License (RCCSL).** A Residential Roof Covering Construction Supervisor License allows an individual to directly supervise persons engaged in the installation, alteration, repair or removal of residential roof coverings as defined by 780 CMR 51.00 through 99.00. Such term shall also apply to persons supervising themselves. (A Residential Roof Covering License does not allow the licensee to work on or supervisor work relating to the structural elements of a residential roof, including sheathing. Such work would require possession of at least a restricted license, dependent upon the scope of work.)

5. **Residential Window and Siding (Exterior Weather Protection) Construction Supervisor License (WSCSL).** A Residential Window and Siding (Exterior Weather Protection) Construction Supervisor License allows an individual to directly supervise persons engaged in the installation, alteration, repair or removal of residential windows and siding as defined by this code. Such term shall also apply to persons supervising themselves. (A Residential Window and Siding License does not allow the licensee to work on or supervisor work relating to the structural

elements of a residential building, including sheathing. Such work would require possession of at least a restricted license, dependent upon the scope of work.)

6. **Residential Solid Fuel-Burning Appliance Installer Construction Supervisor License (SFCSL).** A Residential Solid Fuel-Burning Appliance Installers License allows an individual to directly supervise persons engaged in the installation, alteration, repair or removal of residential solid fuel-burning appliances by 780 CMR 51.00 through 99.00. Such term shall also apply to persons supervising themselves. (A Residential Solid Fuel-burning Appliance Installer Construction Supervisor License does not allow the licensee to work on or supervisor work relating to any structural elements of a residential building, including sheathing. Such work would require possession of at least a restricted license, dependent upon the scope of work.)

7. **Demolition Only Construction Supervisor License (DCSL).** A Demolition Only Construction Supervisor License allows an individual to directly supervise persons engaged in the demolition or removal of single- and two-family residential building and accessory structures. Such term shall also apply to persons supervising themselves. (A Demolition Only Construction Supervisor License does not allow the licensee to work on or supervisor construction, reconstruction alteration or repair work relating to residential buildings. Such work would require possession of at least a restricted license, dependent upon the scope of work.)

**HEARINGS OFFICER.** The Hearings Officer is the person selected by the BBRS to carry out the disposition of complaints against licensed construction supervisors or other individuals or entities licensed, registered or certified under the provisions of 780 CMR.

**LICENSED DESIGNEE.** Any individual designated by the license holder to be present, in the absence of said license holder, during any of the periods stated in 780 CMR 110.R5.2.12. Such designee shall also hold a Construction Supervisor's License in the appropriate category (or better), but his name or license number need not be contained on the building permit application.

**RECOGNITION.** The approval by the BBRS of an application and related documents by one desirous of being licensed as a construction supervisor.

#### **110.R5.1.3 Scope.**

1. 780 CMR 110.R5 shall govern the testing and licensing of individuals who are found to possess the requisite qualifications to be licensed as a

construction supervisor and to have charge or control of construction, reconstruction, alteration, repair, removal or demolition of certain buildings or structures or parts thereof, as identified.

2. Except for those structures governed by Construction Control as regulated by the *Seventh Edition of the Massachusetts State Building Code*, 780 CMR 116.0 (the *Massachusetts Basic Building Code* for buildings other than one- and two-family dwellings), any individual directly supervising persons engaged in construction, reconstruction, alteration, repair, removal or demolition involving activities regulated by 780 CMR shall be licensed in an appropriate category according to 780 CMR 110.R5.2.

**110.R5.1.4 Administration and Enforcement.** The BBRS shall administer and enforce the provisions of 780 CMR 110.R5. The BBRS or those designated by it shall administer examinations, under 780 CMR 110.R5, of persons desirous of being registered as qualified to receive a license as a construction supervisor.

**110.R5.1.5 Hearings Officer.** The BBRS shall appoint a Hearings Officer or Hearings Officers and who shall serve at the pleasure of the Board. Hearings Officer(s) shall conduct hearings on behalf of the Board relative to complaints filed against CSL holders and shall issue corresponding decisions.

### **780 CMR 110.R5.2 REGISTRATION AND LICENSING**

**110.R5.2.1 Qualifications.** Each applicant for license must prove to the Board that he or she possesses at least the minimum qualifications identified below for the category of license sought. Members of the Board of Building Regulations and Standards (BBRS) may consider other acceptable evidence if an applicant, for reasons beyond his or her control, is not able to provide letters of attestation as described.

1. **Unrestricted Construction Supervisor License (UCSL).** An Unrestricted Construction Supervisor License candidate shall demonstrate that he or she has had at least three years of experience in building construction or design under the supervision of an individual possessing an unrestricted construction supervisors license or a registered professional engineer or architect. Acceptable evidence in demonstration of this requirement shall be in the form of a letter of attestation by the licensed construction supervisor or registered professional engineer or architect indicating that the candidate possesses such minimum qualification and identifying specific projects (spanning a period of at least three years) in which the candidate was involved. Said letter shall be made part of the application to examine as described in 780 CMR 110.R5.2.6.



Successful completion of a three or four year vocational high school or other vocational school program in the field of building construction shall be deemed as satisfying one year of the required three years experience as cited 780 CMR 110.R5.2.1. (The BBRS shall determine when vocational training other than in building construction, satisfies a portion of the three year experience criteria.)

**2. Restricted Construction Supervisor License (RCSL).** A Restricted Construction Supervisor License candidate shall demonstrate that he or she has had at least three years of experience in the construction or design of single- or two-family dwelling buildings under the supervision of an individual possessing an restricted construction supervisors license, a registered professional engineer or architect or a home designer. Acceptable evidence in demonstration of this requirement shall be in the form of a letter of attestation by the licensed construction supervisor, registered professional engineer or architect or home designer indicating that the candidate possesses such minimum qualification and identifying specific projects (spanning a period of at least three years) in which the candidate was involved. Said letter shall be made part of the application to examine as described in 780 CMR 110.R5.2.6.

Successful completion of a three or four year vocational high school or other vocational school program in the field of building construction shall be deemed as satisfying one year of the required three years experience as cited 780 CMR 110.R5.2.1. (The BBRS shall determine when vocational training other than in building construction, satisfies a portion of the three year experience criteria.)

**3. Residential Roof Covering Construction Supervisor License (RCCSL).** A Residential Roof Covering Construction Supervisor License candidate shall demonstrate that he or she has had at least three years of experience in the installation, alteration, repair or removal of residential roof coverings as defined by 780 CMR 51.00 through 99.00. Acceptable evidence in demonstration of this requirement shall be as identified on the application to examine as described in 780 CMR 110.R5.2.6.

Candidates for this license who can demonstrate to the satisfaction of the Board that they have had at least five years experience in the supervision of individuals engaged in the installation, alteration, repair or removal of residential roof coverings as defined by this code shall receive a license in this category without being required to examine. Said experience shall be within the period spanning January 1990 to January 2008. Acceptable evidence in demonstration of this requirement shall be in the

form of a letter of attestation by the candidate indicating that he or she possesses such minimum qualification and identifying specific projects (spanning a period of at least a five years during the noted time frame) in which the candidate was involved with residential roof projects, noting the name of the owner and address of said projects. Said letter shall be made part of the application to examine as described in 780 CMR 110.R5.2.6.

The Board shall establish a date—certain when this license is required.

**4. Residential Window and Siding (Weather Protection) Construction Supervisor License (WSCSL).** A Residential Window and Siding Construction Supervisor License candidate shall demonstrate that he or she has had at least three years of experience in the installation, alteration, repair or removal of residential windows and/or siding as defined by 780 CMR 51.00 through 99.00. Acceptable evidence in demonstration of this requirement shall be as identified on the application to examine as described in 780 CMR 110.R5.2.6.

Candidates for this license who can demonstrate to the satisfaction of the Board that they have had at least five years experience in the supervision of individuals engaged in the installation, alteration, repair, or removal of residential widows and/or siding as defined by this code shall receive a license in this category without being required to examine. Said experience shall be within the period spanning January 1990 to January 2008. Acceptable evidence in demonstration of this requirement shall be in the form of a letter of attestation by the candidate indicating that he or she possesses such minimum qualification and identifying specific projects (spanning a period of at least a five years during the noted time frame) in which the candidate was involved with residential window and siding projects, noting the name of the owner and address of said projects. Said letter shall be made part of the application to examine as described in 780 CMR 110.R5.2.6.

**5. Residential Solid Fuel-Burning Appliance Installer Construction Supervisor License (SFCSL).** A Residential Solid Fuel-Burning Appliance Installer Construction Supervisor License candidate shall demonstrate that he or she has had at least three years of experience in the installation, alteration, repair or removal of residential solid fuel-burning appliances as defined by 780 CMR 51.00 through 99.00. Acceptable evidence in demonstration of this requirement shall be as identified on the application to examine as described in 780 CMR 110.R5.2.6 together with any technical knowledge the Board may require him or her to possess.

Candidates for this license who can demonstrate to the satisfaction of the Board that they have had at least five years experience in the supervision of individuals engaged in the installation, alteration, repair or removal of residential solid fuel-burning appliances as defined by this code shall receive a license in this category without being required to examine. Said experience shall be within the period spanning January 1990 to January 2008. Acceptable evidence in demonstration of this requirement shall be in the form of a letter of attestation by the candidate indicating that he or she possesses such minimum qualification and identifying specific projects (spanning a period of at least a five years during the noted time frame) in which the candidate was involved in residential solid fuel-burning projects, noting the name of the owner and address of said projects. Said letter shall be made part of the application to examine as described in 780 CMR 110.R5.2.6.

The Board shall establish a date—certain when this license is required.

**6. Demolition Only Construction Supervisor License (DCSL).** A Demolition Only Construction Supervisor License candidate shall demonstrate that he or she has had at least three years of experience in the demolition or removal of single- and two-family dwelling buildings and accessory structures as defined by this code. Acceptable evidence in demonstration of this requirement shall be as identified on the application to examine as described in 780 CMR 110.R5.2.6.

Candidates for this license who can demonstrate to the satisfaction of the Board that they have had at least five years experience in the supervision of individuals engaged in the demolition or removal of single- and two-family dwelling buildings and accessory structures as defined by 780 CMR 51.00 through 99.00 shall receive a license in this category without being required to examine. Said experience shall be within the period spanning January 1990 to January 2008. Acceptable evidence in demonstration of this requirement shall be in the form of a letter of attestation by the candidate indicating that he or she possesses such minimum qualification and identifying specific projects (spanning a period of at least five years during the noted time frame) in which the candidate was involved with the demolition or removal of single- and two-family dwelling buildings and accessory structures, noting the name of the owner and address of said projects. Said letter shall be made part of the application to examine as described in 780 CMR 110.R5.2.6.

The Board shall establish a date—certain when this license is required.

**7. Masonry Only Construction Supervisor License (MCSL)** A Masonry Only Construction

Supervisor License candidate shall demonstrate that he/she has had at least three years of experience in the construction, reconstruction, alteration, repair, removal or demolition involving the elements of fireplaces, chimneys, required means of egress stairs made of masonry, masonry retaining walls deemed to be a threat to public safety, health or welfare and that retain four feet or more of unbalanced fill, and other masonry structures for which a building permit is required. Acceptable evidence in demonstration of this requirement shall be as identified on the application to examine as described in 780 CMR 110.R5.2.6.

Candidates for this license who can demonstrate to the satisfaction of the Board that they have had at least five years experience in the supervision of individuals engaged in the construction, reconstruction, alteration, repair, removal or demolition involving the elements of fireplaces, chimneys, required means of egress stairs made of masonry, masonry retaining walls deemed to be a threat to public safety, health or welfare and that retain four feet or more of unbalanced fill, and other masonry structures for which a building permit is required as defined by this code shall receive a license in this category without being required to examine. Said experience shall be within the period spanning January 1990 to January 2008. Acceptable evidence in demonstration of this requirement shall be in the form of a letter of attestation by the candidate indicating that he/she possesses such minimum qualification and identifying specific projects (spanning a period of at least five years during the noted time frame) in which the candidate was involved with masonry projects, noting the name of the owner and address of said projects. Said letter shall be made part of the application to examine as described in Section 110.R5.2.6.

**110.R5.2.2 Examinations.** Examinations shall be held only by appointment. All applications must be filed in accordance with the Massachusetts Construction Supervisor (MACS) Candidate Bulletin of Information.

**110.R5.2.3 License Approval.** A majority vote of the members of the Board shall be required to grant a license.

**110.R5.2.4 Expiration.** Licenses issued pursuant to these rules and regulations shall expire three years from the date of issuance which shall be noted on said license and may be renewed.

A renewal of an original license shall be for periods of two years and a renewal license shall expire two years from the date of issuance which shall be noted on said license and may be renewed.

A renewal license shall not be issued unless application therefore is made within one year of the date of expiration of the most recently issued license. Failure to submit a renewal application and to acquire a license within this time period shall be cause for examination or reexamination.

**110.R5.2.5 Fees.** See 780 CMR 110.R5.3.5.

**110.R5.2.5.1 Building Official Fees.** The BBRS shall grant a license at no fee to any building official who, as a condition of his employment requires such license; provided that such person meets the necessary qualifications for licensure and provided further, that such license shall be authorized for use only during the course of employment and shall be appropriately stamped to indicate as such.

**110.R5.2.6 Procedure for Obtaining a License.**

**110.R5.2.6.1 Application.** Applications shall be submitted on forms supplied by the BBRS or its authorized agent.

**110.R5.2.6.2 Forms.** The applicable forms may be mailed to the appropriate testing agency as detailed in the Massachusetts Candidates Bulletin (MACS). It shall be the responsibility of the applicant to assure that the required forms are received by the testing agency. All forms shall be accompanied by the required license fee.

**110.R5.2.6.3 Records.** The BBRS shall keep a copy of the application and a computer file listing all licensed construction supervisors.

**110.R5.2.6.4 Notification of Examination Date.** Upon receipt of a fully completed application, an examination date shall be set and the applicant so notified.

**110.R5.2.7 False Statements.** Any false statement on the application or references shall be sufficient reason to refuse to issue a license, or to suspend or revoke a license if issued.

**110.R5.2.8 Cause for Reprimand, Suspension or Revocation.** The following shall be grounds for reprimand, suspension or revocation of a license:

- (1) the applicant made a false statement on their application for licensure;
- (2) a licensee made a false statement to the Board;
- (3) any violation of 780 CMR;
- (4) work was performed without a building permit in violation of 780 CMR 11.0 and 5111.0;
- (5) failure to fully cooperate with a Board investigation into a complaint;
- (6) failure to turn over a suspended or revoked license to the Board
- (7) failure to abide by a mandate or order of the Board
- (8) failure to properly supervise a project or be present at a work site as required by 780 CMR 110.R5.2.15.2.

**110.R5.2.9 Procedure for Suspension and/or Revocation of License.**

**110.R5.2.9.1 Complaints.** All complaints relative to a licensee must be in writing on a form provided by the Board. Any person, including a building official or the Board itself, may file a complaint. A complaint may allege wrongdoing against an HIC registration and a CSL holder on the same form if the issues giving rise to the filing of the complaint are reasonably related. All complaints must be received by the Board within three years of the date the parties entered into an agreement to perform the work requiring licensure pursuant to these provisions.

**110.R5.2.9.1.1 Basis of Complaint.** Work related to a specific building permit that is deemed to be in violation of *The Massachusetts Basic and/or One and Two-Family Dwelling Code*, 780 CMR 110R5 or the Home Improvement Contractor Registration Laws and/or regulations, or a consistent pattern of abuse relating to contractual arrangements between license holder and client shall be the basis of such complaint. Any work requiring a building permit which is performed without such permit shall be considered cause for suspension or revocation.

**110.R5.2.9.2 Review and Investigation of Complaints.** Every complaint filed shall be reviewed by the Board or its designee. If the reviewer determines that the complaint alleges plausible potential violations of 780 CMR by the licensee, a hearing shall be convened. The Board may, if it elects, investigate a complaint prior to scheduling a hearing. Failure of a complainant to cooperate in the investigation shall be grounds for dismissal of a complaint.

If a complaint alleges violations of the Home Improvement Contractor Act (M.G.L. c.142A: *Regulation of Home Improvement Contractors*) and/or 780 CMR 110.R6 in addition to allegations pursuant to the provisions of 780 CMR 110.R5, one hearing may be held on all issues alleged provided that they all arise out of the same set of facts and circumstances.

Upon receipt of a complaint, the Board or its designee shall send a letter acknowledging receipt to the complainant, the licensee being complained of, and the appropriate municipal building official. A copy of the complaint and all attachments shall be mailed to the license holder with the acknowledgment letter

**110.R5.2.9.3 Notice of Hearing.** If the Hearings Officer or the Board determines that a hearing shall be held to resolve a complaint, reasonable notice shall be provided to the complainant and the license holder. Mailing of notice to the address on record with the BBRS shall be deemed satisfactory notice to the license holder. The

notice of hearing shall contain.

1. The name of the complainant.
2. The date, time and place of said hearing.
3. The location of the incident giving rise to the complaint.
4. Notice that either party may view the Board's complaint file by appointment.

**110.R5.2.9.4 Hearing.** Hearings convened pursuant to this chapter shall be conducted pursuant to 801 CMR 1.02 (Informal/fair hearing rules). Any party may be represented by legal counsel. All parties shall be permitted to present an opening statement, testify on their own behalf, cross-examine all witnesses, present any relevant witness testimony, present any relevant documentary evidence, and offer a closing argument. The Hearing Officer may question any witness and include any records kept by the Board as exhibits. The Hearing Officer may conclude the hearing at any time and issue a decision based on the evidence presented.

If a licensee does not appear for the hearing, the Hearing Officer may conduct a hearing in their absence and render a decision based upon the evidence presented, but only after making a finding that the licensee was provided notice as required by 780 CMR 110.R5.2.9.3.

**110.R5.2.9.5 Decisions and Discipline of License Holders.** The hearings officer shall issue a written decision after the hearing. Decisions shall be issued in a reasonably prompt manner. The hearing officer may suspend a license for a fixed period of time, revoke a license permanently, or reprimand the licensee. In conjunction with these disciplinary measures, the hearing officer may order the license holder to retake the CSL examination. Any license that is suspended or revoked shall be forwarded to the Board immediately. A person whose license is revoked may apply in writing to the Board for reinstatement no sooner than two years from the date of the revocation.

**110.R5.2.10 Appeal.** Any person aggrieved by a decision of the hearings officer may, in writing, request review of said decision by the BBRS. The filing of such a petition shall not serve to stay any disciplinary action taken by the Hearings Officer. The BBRS may review such decision at its discretion. Such review is an administrative review that shall be based solely on the administrative record and is not to be construed as a second Hearing on the same complaint(s). After review, the Board may either deny the petition or remand the matter to the Hearings Officer for further proceedings as directed. The filing of an appeal with the Board shall serve to toll the timing provisions of M.G.L. c .30A, § 14 until such time as a final decision is rendered by the Board.

**110.R5.2.10.1 Appeal to a Court.** Any person aggrieved by a decision of the Hearings Officer or the Board may appeal such decision in conformance with M.G.L. c. 30A, § 14.

**110.R5.2.11 Change of Address.** The license holder shall have the responsibility of reporting any change of address and/or change of circumstance to the BBRS. The information on file at the BBRS shall be deemed accurate unless changed by the license holder.

**110.R5.2.12 On-site Presence of Supervisor.** An Unrestricted or Restricted licensed holder or a licensed designee as defined shall be present on the site at some point to approve construction, reconstruction, alterations, removal or demolition involving the following work.

**Note:** Any Licensed Construction Supervisor who contracts to do work for a homeowner shall be responsible for performing said work in accordance with 780 CMR 51.00 through 99.00, 780 CMR 110.R5 and all reference standards and/or manufacture's recommendations, whether or not the licensed contractor secured the permit for said work:

1. Foundation.
  - a. Preparation of bearing material;
  - b. Location of foundation;
  - c. Placement of forms and reinforcing materials (if applicable);
  - d. Placing of concrete (or setting of other foundation materials);
  - e. Setting weather protection methods (if required);
  - f. Installation of waterproofing and/or dampproofing materials; and
  - g. Placement of backfill.

**Note:** If encountered in excavating for foundation placement, the licensed construction supervisor shall report the presence of groundwater to the building official and shall submit a report detailing methods of remediation.

2. Structural frame.
  - a. Installation of joists, trusses and other structural members and sheathing materials to verify size, species and grade, spacing and attachment\fastening methods. (The licensed construction supervisor shall ensure that any cutting or notching of structural members is performed in accordance with requirements of 780 CMR 51.00 through 99.00.)
  - b. Setting of masonry or other structural systems (if used).
3. Energy conservation. Installation of insulation materials, vapor and air infiltration barriers.

4. Fire protection. Installation of smoke, heat and carbon monoxide (CO) detectors and/or systems.

5. Special construction, including, but not limited to:

- a. Chimneys;
- b. Retaining walls over four feet (1219 mm) in height above grade.

The building official may require an unrestricted or restricted license holder or his or her licensed designee to be present on the building site at other points during the construction, reconstruction, alterations, removal or demolition work as he or she deems appropriate.

**Exception:** Any homeowner performing work for which a building permit is required shall be exempt from the licensing provisions provided that if a homeowner engages a person(s) for hire to do such work, that such homeowner shall act as supervisor and shall be subject to all applicable provisions of 780 CMR 51.00 through 99.00 and 780 CMR 110.R5. This exception shall not apply to the field erection of manufactured buildings constructed pursuant to 780 CMR 51.00 through 99.00 and 780 CMR 110.R3. (See definition of "Homeowner" in 780 CMR 51.00.)

**Note:** Registered architects and/or professional engineers who secure building permits for and/or perform construction services for detached one- and two-family dwellings are not required to be licensed pursuant to 780 CMR 110.R5 provided that said registered architect or professional engineer secures such permit or performs such services under the responsibilities of his or her professional registration and supervises construction activities as prescribed by 780 CMR 110.R5.2.12.

**Exception:** An unrestricted or restricted licensed construction supervisor as defined shall be required for installation of manufactured one and two family homes as required by 780 CMR 110.R3.

Masonry Only Construction Supervisor License Holder (MCSL), Residential Roof Covering Construction Supervisor License Holder (RCCSL), Residential Window and Siding (Exterior Weather Protection) Construction Supervisor License Holder (WSCSL), or Residential Solid Fuel-Burning Appliance Installer Construction Supervisor License Holder (SFCSL) shall be present on the job site at such times as deemed necessary to ensure compliance with the *Massachusetts Basic and/or One- and Two-Family Dwelling Code* and 780 CMR 110.R5.

**110.R5.2.13 Lost/Stolen Licenses.** License holders are required to keep the license in their possession at all times during the course of construction work at

any and all building sites. If said license is lost, stolen or mutilated, it shall be the responsibility of the license holder to notify the BBRS.

**110.R5.2.14 Requirement to Show License.** Any building official may require the license holder to produce the license at any time on a job site.

**110.R5.2.15 Responsibility of Each License Holder.**

**110.R5.2.15.1 Responsibility for Work.** The license holder shall be fully and completely responsible for all work for which he/she is supervising. He/she shall be responsible for seeing that all work is done pursuant to 780 CMR and the drawings as approved by the Building Official.

**110.R5.2.15.2 Responsibility to Supervise Work.** The construction, reconstruction, alteration, repair, removal or demolition of all detached one- and two-family dwellings or the field erection of any manufactured building shall be under the control of a licensed construction supervisor.

At a minimum, the license holder, as identified on the building permit application, or his or her licensed designee, shall be present on the building site to approve construction, reconstruction, alterations, removal or demolition involving the following work:

1. Foundation:
  - (a) Location of and excavation of foundation;
  - (b) Preparation of bearing material;
  - (c) Placement of forms and reinforcing materials (if applicable);
  - (d) Incorporation of vapor retarders (energy conservation)
  - (e) Placing of concrete (or setting of other foundation materials);
  - (f) Setting weather protection methods (if required);
  - (g) Installation of waterproofing and/or damp proofing materials; and
  - (h) Placement of backfill.

**Note:** If encountered in excavating for foundation placement, the licensed construction supervisor (or registered design professional) shall report the presence of groundwater to the building official and shall submit a report detailing methods of remediation.

2. Structural frame:
  - (a) Installation of joists, trusses and other structural members and sheathing materials to verify size, species and grade, spacing and attachment/fastening methods (the licensed construction supervisor shall ensure that any cutting or notching of structural members is performed in accordance with requirements of 780 CMR;

(b) Setting of masonry or other structural systems (if used).

3. Energy conservation: Installation of insulation materials, vapor and air infiltration barriers.

4. Fire protection: Installation of smoke and heat detectors and/or systems.

5. Special construction (including, but not limited to):

(a) Chimneys;

(b) Retaining walls over four feet (1219 mm) in height above grade.

The building official may require the license holder or his or her licensed designee (or registered design professional) to be present on the building site at other points during the construction, reconstruction, alterations, removal or demolition work as he or she deems appropriate.

When required by the building official, at the completion of the work, prior to the issuance of a certificate of occupancy, the licensed construction supervisor, registered professional or homeowner, as applicable, shall submit a copy of the completed checklist contained in Appendix 780 CMR 120.P to the building official in verification that, to the best of his or her knowledge, the work has been executed in accordance with the provisions of 780 CMR.

**110.R5.2.15.3 Notification of Violations.** The license holder shall immediately notify the building official in writing of the discovery of any violations which are covered by the building permit.

**110.R5.2.16 Permit Applications.** All building permit applications shall contain the name, signature and license number and the category of license so

held of the construction supervisor who is to supervise those persons engaged in construction, reconstruction, alteration, installation repair, removal or demolition as regulated by the *Sixth Edition of the Massachusetts State Building Code*, 780 CMR 108.3.5, 780 CMR 51.00 through 99.00 and 780 CMR 110.R5 in the event that such licensee is no longer supervising said persons, the work shall immediately cease until a successor license holder is substituted on the records of the building department.

**110.R5.2.17 Gender of Terms.** The term “he” as used in 780 CMR R5 shall include the pronoun “he” and/or “she.”

### **780 CMR 110.R5.3 ADMINISTRATION**

**110.R5.3.1 Identification.** The BBRS shall issue a card or a certificate or other form of identification.

**110.R5.3.2 Records of Licensees.** The BBRS shall maintain a computer listing which will be available to the public at the office of the BBRS containing all licenses issued by the BBRS.

**110.R5.3.3 Examination.** The Board shall determine whether an examination shall be required, or shall be oral or written and shall determine the content of the examination, if applicable.

**110.R5.3.4 Subject to Rules, Regulations and Procedures.** All persons licensed shall be subject to 780 CMR 110.R5, as well as other rules, regulations, and procedures promulgated by this BBRS.

**110.R5.3.5 Fees.** Any and all fees charged for license fees, examination fees, renewal fees, and registration fees shall be determined by the Commonwealth and enforced by the BBRS. Examination fees shall be established from time to time as necessary.

## 780 CMR 110.R6

# REGISTRATION AND ENFORCEMENT OF HOME IMPROVEMENT CONTRACTOR PROGRAM

(Note: 780 CMR 110.R6 is unique to Massachusetts)

## FORWARD

780 CMR 110.R6 covers the registration of home improvement contractors and subcontractors and enforcement of the requirements of M.G.L. c. 142A as they pertain to home improvement contractors and subcontractors. Other regulations applicable to the Home Improvement Contractor program include:

**201 CMR 14.00.** Operation of the home improvement arbitration program authorized by M.G.L. c. 142A, promulgated by the secretary of the Office of Consumer Affairs and Business Regulations.

**201 CMR 15.00.** Operation of the home improvement guaranty fund, promulgated by the secretary of the Office of Consumer Affairs and Business Regulations.

### 780 CMR 110.R6.1 General Provisions

- 110.R6.1.1 Authority
- 110.R6.1.2 Definitions
- 110.R6.1.3 Scope
- 110.R6.1.4 Administration and Enforcement
  - 110.R6.1.4.1 Director responsibility
  - 110.R6.1.4.2 Advisory board
- 110.R6.1.5 Persons Who Must Register
  - 110.R6.1.5.1 Filing of application
  - 110.R6.1.5.2 Designated individual
  - 110.R6.1.5.3 Liability
- 110.R6.1.6 Persons Exempt From Registration

### 780 CMR 110.R6.2 Registration Procedure

- 110.R6.2.1 Applicant Actions
  - 110.R6.2.1.1 Application
  - 110.R6.2.1.2 Supporting documentation
  - 110.R6.2.1.3 Mailing address
  - 110.R6.2.1.4 Certified check/money order
  - 110.R6.2.1.5 Lost/destroyed certificate
  - 110.R6.2.1.6 Licensee liability
- 110.R6.2.2 Director's Action on Application
  - 110.R6.2.2.1 Issuance of certificate
  - 110.R6.2.2.2 Grounds for refusal to register
  - 110.R6.2.2.3 Application refused
  - 110.R6.2.2.4 Record retention
- 110.R6.2.3 Duration of Registration
- 110.R6.2.4 Fees to be Paid Upon Registration or Renewal
  - 110.R6.2.4.1 Registration and renewal fee
  - 110.R6.2.4.2 Contribution to guaranty fund-initial registration
- 110.R6.2.5 Responsibilities of Each Registrant
  - 110.R6.2.5.1 Changes in status
  - 110.R6.2.5.2 Display of certificate number
  - 110.R6.2.5.3 Return of certificate

### 780 CMR 110.R6.3 Enforcement Procedure

- 110.R6.3.1 Notification of Violation
- 110.R6.3.2 Consideration of Factors
- 110.R6.3.3 Letter of Reprimand
- 110.R6.3.4 Suspension, Revocation, Administrative Penalties
  - 110.R6.3.4.1 Hearing procedure
- 110.R6.3.5 Injunction, Restitution

### 110.R6.3.6 Fines and Criminal Penalties

### 780 CMR 110.R6.4 Enforcement Actions

- 110.R6.4.1 Administrative Penalties
  - 110.R6.4.1.1 Allowable actions
  - 110.R6.4.1.2 Pendency of claims
- 110.R6.4.2 Fines and Criminal Penalties
  - 110.R6.4.2.1 Sought by attorney general or district attorney
  - 110.R6.4.2.2 Operating without certificate
  - 110.R6.4.2.3 Other violations
- 110.R6.4.3 Injunction, Restitution
  - 110.R6.4.3.1 Order from superior court
  - 110.R6.4.3.2 Director bond not required
- 110.R6.4.4 Permit Requirements, Prohibited Acts and Penalties
  - 110.R6.4.4.1 Permit requirements
  - 110.R6.4.4.2 Prohibited acts
  - 110.R6.4.4.3 Penalties
  - 110.R6.4.4.4 Deceptive act

### 780 CMR 110.R6.5 Contracts

- 110.R6.5.1 Contract in Writing
- 110.R6.5.2 Contents of Contract
  - 110.R6.5.2.1 Documents and information
  - 110.R6.5.2.2 Permit notice
  - 110.R6.5.2.3 Acceleration of payment
  - 110.R6.5.2.4 Copy to owner
  - 110.R6.5.2.5 Alternative dispute resolution
- 110.R6.5.3 Dispute Resolution
  - 110.R6.5.3.1 Court action
  - 110.R6.5.3.2 Owner right to arbitration
  - 110.R6.5.3.3 Contractor right to arbitration
- 110.R6.5.4 Validity of contract

### 780 CMR 110.R6.6 Supplementary Identification Cards

- 110.R6.6.1 Definitions
- 110.R6.6.2 Certificates of registrants
  - 110.R6.6.2.2 Non-Individual Registrants
- 110.R6.6.3 Fees
- 110.R6.6.4 Expiration

## 780 CMR 110.R6.1 GENERAL PROVISIONS

**110.R6.1.1 Authority.** 780 CMR 110.R6 is authorized and promulgated by the administrator of the State Board of Building Regulations and Standards under the authority of M.G.L. c. 142A, § 16 and M.G.L. c. 143, § 94(g).

### 110.R6.1.2 Definitions.

**APPLICATION.** The form provided by the director which, along with other documentation and fee(s) that may be required, must be duly filed to become a registered home improvement contractor or subcontractor.

**ADVERTISEMENT.** Any commercial message in any newspaper, magazine, leaflet, flyer, catalog, display space in the telephone book, on radio, television, public address system, on the internet or made in person, by letter or other printed material, or any interior or exterior sign or display, including on a vehicle, which is delivered or made available to the public or a specific individual in any manner whatsoever.

**APPLICANT.** Any person who files an application to become registered as a home improvement contractor or subcontractor.

**BBRS or Board.** The State Board of Building Regulations and Standards.

**CERTIFICATE.** The document provided to the registrant which lists the certificate number and other information required by the director.

**CERTIFICATE NUMBER.** See registration number.

**CLEAR AND CONSPICUOUS.** The material representation being disclosed is of ten point type and is so presented as to be readily noticed and understood by a reasonable person. Language in the body of a contract is “conspicuous” if it is in larger or contrasting type or color, or underscored.

**CONTRACT.** Unless specifically noted otherwise in the text, a written agreement between a home improvement contractor and an owner contained in one or more documents for the performance of certain residential contracting work, including all labor, material, goods and services set forth under said agreement for a total amount exceeding \$1,000.00.

**CONTRACTOR.** Any person who, through himself or others, undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid for construction work. (See “home improvement contractor”)

**DIRECTOR.** The administrator of the State Board of Building Regulations and Standards, or their designee(s).

**EMPLOYEE.** For the purposes of 780 CMR 110.R6 in determining the number of employees of an applicant for registration, any individual engaged in construction related activities who, in

the weekly pay period prior to the date of registration worked 20 or more hours for the registrant and for whom, the registrant withheld or was required to withhold federal or state income taxes and who, during the same pay period, was not otherwise paid or had such taxes withheld by any other registrant. Included would be all construction workers, supervisors, sales personnel, designers, estimators, active partners and officers of corporations.

**FUND.** The residential contractor’s guaranty fund. See “guaranty fund.”

**FUND ADMINISTRATOR.** the administrator of the residential contractor’s guaranty fund, appointed by the secretary of the Office of Consumer Affairs and Business Regulation.

**GUARANTY FUND.** The residential contractor’s guaranty fund. A fund out of which an owner, as defined herein, aggrieved by a registrant(s) may be paid part or all of their damages under rules and regulations promulgated by the secretary of the Office of Consumer Affairs and Business Regulation.

**HOME IMPROVEMENT CONTRACTOR.** Any person who owns or operates a contracting business who, through himself or others, undertakes, purports to have the capacity to undertake, offers to undertake, or submits a bid for residential contracting work to an owner, as such work is defined in 780 CMR 110.R6 and M.G.L. c. 142A, and such work for each project is in a total amount in excess of \$1,000.00, and is registered or required to be registered in accordance with M.G.L. c. 142A and 780 CMR 110.R6.

**HOMEOWNER.** See “Owner.”

**LOCAL CONSUMER GROUP.** A local or regional agency which deals with the resolution of consumer problems and who is determined eligible by the attorney general under standards set by the attorney general in accordance with M.G.L. c. 12, § 11G.

**MORTGAGE BROKER.** Any person, who, for compensation or gain, or in the expectation of compensation or gain, directly or indirectly negotiates, places, assists in placement, finds or offers to negotiate, place, assist in placement of mortgage loans on residential property for others, or as otherwise defined in M.G.L. c. 255E.

**MORTGAGE LENDER.** Any person engaged in the business of making mortgage loans, or issuing commitments to fund mortgage loans, or accepting applications or fees associated with the making of mortgage loans which are secured by a mortgage on residential property, or as otherwise defined in M.G.L. c. 255E.

**MORTGAGE LOAN.** A loan to any person made primarily for personal, family, or household purposes, secured wholly or partially by a



mortgage on a residential property, or as otherwise defined by M.G.L. c. 255E.

**OWNER.** Any homeowner of a building which is an existing building at the time of a contract that is owner occupied, containing at least one but not more than four dwelling units, or a tenant authorized by the homeowner thereof, who orders, contracts for, or purchases the services of a contractor or subcontractor. An owner occupying a condominium unit in a building containing no more than four dwelling units qualifies as an owner under this definition, provided the owner owns a total of not more than four condominium units. A condominium association does not qualify as an owner.

**OWNER-OCCUPIED.** The residential building of at least one but not more than four dwelling units and occupied by the owner as a primary residence.

**PERMIT.** For the purposes of 780 CMR 110.R6, any construction-related permit, excluding any permits required by the owner which are not considered construction-related, such as zoning, environmental, historical commission, and the like.

**PERSON.** Any individual, partnership, corporation, society, trust, association, or any other legal entity.

**REGISTRANT.** Any duly registered home improvement contractor or subcontractor.

**REGISTRATION NUMBER.** The number assigned to the applicant after he has been approved for registration by the director and the Board of Building Regulations and Standards.

**RESIDENTIAL CONTRACTING.** The reconstruction, alteration, renovation, repair, modernization, conversion, improvement, removal or demolition or the construction of an addition to any pre-existing owner-occupied building containing at least one but not more than four dwelling units, which building or portion thereof is used or designed to be used as a residence or dwelling unit, or to structures which are adjacent and accessory to such residence or building, including but not necessarily limited to, garages, sheds, cabanas, poolhouses, gazebos.

**SALESPERSON.** any person, other than a supplier of materials or a laborer, who solicits, offers, negotiates, executes, or otherwise endeavors to procure by any means whatsoever, directly or indirectly, a contract for residential contracting services from an owner on behalf of a home improvement contractor or subcontractor.

**SECRETARY.** The secretary of the Office of Consumer Affairs and Business Regulations.

**SUBCONTRACT.** A contract, written or verbal, in any amount, between a home improvement contractor and a subcontractor or between two

subcontractors for the performance of any part of the home improvement contractor's or subcontractor's contract.

**SUBCONTRACTOR.** Any person, other than a supplier of only materials, who enters into a contract, written or verbal, with a home improvement contractor for the performance of any part of a home improvement contractor's contract with an owner for residential contracting, or who enters into a contract with any other subcontractor for the performance of any part of the subcontractor's contract.

#### **110.R6.1.3 Scope.**

**110.R6.1.3.1** M.G.L. c. 142A and 780 CMR 110.R6 require the registration of persons who engage in residential contracting work as defined in 780 CMR 110.R6 and M.G.L. c. 142A after July 1, 1992, and define the requirements of M.G.L. c. 142A and enforcement of these requirements, as they pertain to home improvement contractors and subcontractors.

**110.R6.1.3.2** Except for those persons who are specifically exempt from the provisions of 780 CMR 110.R6 and M.G.L. c. 142A, all contractors and subcontractors who engage in residential contracting as defined in 780 CMR 110.R6 and M.G.L. c. 142A shall be subject to and shall comply with 780 CMR 110.R6 and M.G.L. c. 142A.

#### **110.R6.1.4 Administration and Enforcement.**

**110.R6.1.4.1 Director Responsibility.** The director shall promulgate and enforce the provisions of 780 CMR 110.R6 and M.G.L. c. 142A as to all home improvement contractors and subcontractors who are registered or required to register.

#### **110.R6.1.5 Persons Who Must Register.**

**110.R6.1.5.1 General.** All home improvement contractors and subcontractors, as defined in 780 CMR 110.R6, except those exempt in 780 CMR 110.R6.1.6, shall register with the director by filing an application prescribed by the director.

**110.R6.1.5.2 Designated Individual.** In the case of registration by a corporation or partnership, an individual shall be designated to be responsible for the corporation's or partnership's residential contracting work.

**110.R6.1.5.3 Liability.** The corporation or partnership and its designee shall be jointly and severally liable for the payment of the registration fee, the payment to the guaranty fund, and for violations of any provisions of 780 CMR 110.R6, including actions by the registrant's employees, subcontractors or salespersons.

**110.R6.1.6 Persons Exempt from Registration or Renewal.** Any person exempt from registration under 780 CMR 110.R6.1.6, and does not voluntarily register, is not subject to any of the provisions of 780 CMR 110.R6 or M.G.L. c. 142A. Persons exempt from registration are:

1. The Commonwealth or its political subdivisions;
2. Any school, public or private, offering as part of a vocational education program courses and training in any aspects of home construction or home improvements;
3. Electricians, plumbers, architects or any other persons who are required by law to attain standards of competency or experience as a prerequisite to licensure for and engaging in such trade or profession and who are acting exclusively within the scope of the profession for which they are currently licensed pursuant to such law, construction supervisors excepted.
4. Persons dealing in the sale of goods or materials who neither arrange to perform nor perform directly or indirectly any work or labor in connection with the installation of or application of the goods or materials;
5. Any owner personally doing residential contracting work on his/her own home;
6. Any individual who performs construction related labor or services for a home improvement contractor or subcontractor, for wages or salary and who does not act in the capacity of a home improvement contractor or subcontractor;
7. Any contractor or subcontractor who works on one residential contracting undertaking or project by one or more contracts where the aggregate contract price to the owner is less than \$500.00; provided, however, that the contract is not in an amount of less than \$500.00 for the purpose of evading 780 CMR 110.R6 or M.G.L. c. 142A.
8. Any person who engages in the business of a home improvement contractor or subcontractor on other than a full-time basis, and who has earned in gross revenues from residential contracting work, less than \$5,000.00 in the previous 12-month period;
9. Any person acting as a home improvement contractor or subcontractor who was enrolled as a full-time student in a secondary school or college with degree granting authority from the government of the state in which the school is located, for the immediately preceding academic semester and is also enrolled as a full-time student for the next academic semester, in the same or a similar degree granting secondary school or college provided that at least  $\frac{2}{3}$  of the number of employees of the contractor or subcontractor are similarly enrolled in secondary schools or colleges and that the home improvement contractor or subcontractor does not reasonably expect to earn or does not in fact earn, in gross revenues, more

than \$5,000.00 from residential contracting work;

10. Persons who install any or all of the following:

- a. central heating,
- b. air-conditioning systems,
- c. energy-conservation devices, or
- d. provides conservation services conducted by or on behalf of a public utility under a program approved by the department of public utilities.

11. Any contractor or subcontractor who works exclusively in any of the following home improvement areas:

- a. landscaping;
- b. interior painting or wall covering;
- c. finished floor covering, including, but not limited to, carpeting, vinyl, tile, nonstructural hardwood;
- d. fencing or freestanding masonry walls;
- e. above-ground swimming pools;
- f. shutter or awning installation;
- g. ground level patios; includes flagstone, concrete, block, and wood set directly onto the ground; excludes decks which are supported above ground;
- h. asphalt and driveway installation and maintenance.

## **780 CMR 110.R6.2 REGISTRATION PROCEDURE**

### **110.R6.2.1 Applicant Actions.**

**110.R6.2.1.1 Application.** Each applicant for registration as a home improvement contractor or subcontractor shall submit a completed copy of an application form supplied by the director and necessary supporting documents to the director, along with such fees as required by the provisions of 780 CMR 110.R6.2.4, and M.G.L. c. 142A.

**110.R6.2.1.2 Supporting Documentation.** Supporting documentation shall include, as applicable:

1. For Corporations. An official document which lists the names and addresses of officers, directors, and major stockholders such as. A copy of the articles of incorporation, a current annual report as filed with the Secretary of State, a copy of the registration as a foreign corporation filed with the Secretary of State, or any other documentation which lists the names and addresses of officers, directors, and major stockholders, will be accepted in lieu of listing these names on the application.
2. For Partnerships. Either a copy of the current partnership agreement containing the requested information, or listing of the names and addresses of all partners on the application form.
3. For all Non-corporate Applicants. A copy of the business registration certificate filed with a city or town pursuant to M.G.L. c. 110,

§ 5, if applicable.

**110.R6.2.1.3 Mailing Address.** The application, supporting documentation and fees may be mailed or delivered as follows:

Director  
Home Improvement Contractor Registration  
One Ashburton Place, Room 1301  
Boston, MA 02108

It shall be the responsibility of the applicant to assure that the required registration material is received by the director.

**110.R6.2.1.4 Certified Check/Money Order.** All applications shall be accompanied by the registration fee or by evidence of exemption, and by the fee for the guaranty fund. Fees shall be in the form of a money order or certified check. Two money orders or certified checks shall be included - one for the registration fee, if required, and one for the guaranty fund. Make checks or money orders payable to the Commonwealth of Massachusetts.

As noted in 780 CMR 110.R6.2.4.1.2, licensed individual construction supervisors and individual motor vehicle repair shops who desire to register are exempt from the registration fee only; there are no exemptions to the requirement for a contribution to the guaranty fund.

**110.R6.2.1.5 Lost/Destroyed Certificate of Registration.** Upon receipt of a nominal fee as established by the Commonwealth, and a completed affidavit provided by the director, that a certificate of registration has been lost or destroyed, a replacement certificate clearly identified as such, shall be issued by the director.

**110.R6.2.1.6 Licensee Liabilities.** The provisions of 780 CMR 110.R6 and those of M.G.L. c. 142A shall not be construed to relieve or lessen the responsibility of any person registered under 780 CMR 110.R6 and M.G.L. c. 142A or licensed under M.G.L. c. 143, § 94(i), nor shall the Commonwealth be deemed to have assumed any such liability by reason of the issuance of registration or licensure.

#### **110.R6.2.2 Director's Action on Application.**

**110.R6.2.2.1 Issuance of Certificate.** Upon receipt of a completed application form, supporting documentation, and the proper fee(s) therefor, the director shall ascertain whether such applicant meets all of the registration requirements and there are no grounds for rejection as specified in 780 CMR 110.R6.2.2.2; if all requirements are met, the Director, within 30 days of receipt of the application shall assign a registration number, with the approval of the BBRS; prepare and send by first class mail to such applicant, at the address stated on the registration form, a certificate indicating the applicant's registration number, name, address, name of the entity of the applicant, and such other

information as is deemed necessary by the director. The registration certificate is not transferable to any other person.

**110.R6.2.2.2 Grounds for Refusal to Register or Renew.** No application for registration or renewal conforming to 780 CMR 110.R6 and M.G.L. c. 142A may be denied except for a finding by the director that the applicant has done one or more of the following acts which are grounds for denial after the effective date of 780 CMR 110.R6.

1. Made material omissions or mis-representations of fact on the home improvement contractor or subcontractor application for registration or renewal and supporting documentation or on an application for licensure or renewal under M.G.L. c. 143, § 94(i). (construction supervisor license);
2. Failed to pay either the registration fee or the payment to the fund as required under 780 CMR 110.R6.2.4.
3. Failed consistently to perform contracts or has performed said contracts in an unworkmanlike manner or has failed to complete said contracts with no good cause or has engaged in fraud or bad faith with respect to said contracts;
4. Failed to meet or has violated any of the requirements for registered home improvement contractors or subcontractors as defined in 780 CMR 110.R6, or has performed or is attempting to perform any act prohibited by 780 CMR 110.R6 and M.G.L. c. 142A.
5. Is under suspension or revocation of registration as a home improvement contractor or subcontractor;
6. Has failed to repay the guaranty fund for any payments made by the fund on the registrant's account.
7. Any act, set of circumstances, which demonstrate that it would be counter to the consumer protection aims of M.G.L. c. 142A to issue a registration.

**110.R6.2.2.3 Application Refused.** If the application is refused, the director shall, within 30 days of the application, notify the applicant in writing by first class mail of the reasons for the rejection.

**110.R6.2.2.3.1.** If applicable, the applicant may correct the deficiencies in the application material and return the corrected data to the director within ten days of the date of mailing of the director's notice of refusal, who will then assign a registration number and issue a certificate.

**110.R6.2.2.3.2.** If the grounds for rejection are based upon substantive grounds for refusal of 780 CMR 110.R6.2.2.2, and M.G.L. 142A, the applicant may request that the director reconsider the application as submitted by

stating his/her reasons therefore, in writing, within ten days of the date of mailing of the notice of the director's rejection of the application.

**110.R6.2.2.4 Record Retention.** The director shall keep a record of the date the application and all pertinent documents are received. In addition, the director shall keep on file, in convenient form and open to public inspection, all applications for registration, copies of certificates issued, and the names of all home improvement contractors or subcontractors whose registration has been revoked, suspended or surrendered.

**110.R6.2.3 Duration of Registration.**

**110.R6.2.3.1 Initial Registration.** Each such registration shall be in effect for two years from the date of issuance, unless suspended or revoked prior to that time, as provided in 780 CMR 110.R6 and M.G.L. c. 142A.

**110.R6.2.3.2 Renewal of Registration.** Not less than 90 days before the date of the expiration of such registration, the director shall send or cause to be sent, to each registered contractor or subcontractor, at the address on record, a notice for renewal of the registration and a copy of all forms necessary for such renewal, by first class mail, along with a schedule of such fees as are necessary for said renewal. Renewals will remain in effect for two years from date of renewal if not suspended or revoked prior to that time. The responsibility for timely renewal of registration remains with the registrant, notwithstanding this notice. An applicant shall submit a renewal application with fees within one year of the expiration date of the registration. Failure to submit a renewal application within this time period shall subject the applicant to a fee equal to the amount for initial registration.

**110.R6.2.4 Fees to be Paid upon Registration or Renewal.**

**110.R6.2.4.1 Registration and Renewal Fee.** All home improvement contractors and subcontractors, except those that are exempt from the registration or renewal fee in 780 CMR 110.R6.2.4.1.2, shall, at the time of registration or renewal, pay to the Commonwealth, a fee in the amount of the fee then being charged for the construction supervisor's license under M.G.L. c. 143, § 94(I).

**110.R6.2.4.1.2 Exemptions from Registration and Renewal Fee.**

1. Every individual construction supervisor licensed by the BBRS in accordance with M.G.L. c. 143, § 94(i), and every individual motor vehicle repair shop registered in accordance with M.G.L. c. 100A, § 2, who desires to be registered or renew their registration as a home improvement contractor

or subcontractor, and whose license or registration fee has been paid and is current, shall be deemed to have paid the registration fee required by 780 CMR 110.R6.2.4.1.

2. If the applicant is a corporation or partnership and the named individual responsible for home improvement contracting work is a licensed construction supervisor and a substantial owner (10% or more of ownership), the applicant entity is exempt from the registration and renewal fee.

**110.R6.2.4.2 Contribution to Guaranty Fund-initial Registration.** At the time of initial registration, contractors and subcontractors shall also pay to the Commonwealth, in a separate certified check or money order from the stated registration fee, if any, a fee payable to the guaranty fund.

**110.R6.2.4.2.1.** The fee paid by contractors and subcontractors to the guaranty fund shall be determined based on the number of employees (active construction-related personnel) of the home improvement contractor or subcontractor, as defined in 780 CMR 110.R6.1.2, on the date of initial registration, as follows:

1. Zero to three employees \$100.00
2. four employees up to and including ten \$200.00
3. 11 employees up to and including 30 \$300.00
4. More than 30 employees \$500.00

**110.R6.2.4.2.2.** The fee to the guaranty fund shall be paid by every registered home improvement contractor and subcontractor regardless of whether such registrant is exempt from paying the registration fee because of the home improvement contractor or subcontractor's status as a licensed construction supervisor or registered motor vehicle repair shop owner.

**110.R6.2.4.2.3.** Any registrant who fails to accurately determine the number of employees and pay the correct fee therefor shall be deemed to have failed to pay the fees required for registration and shall be subject to enforcement action by the director, in accordance with 780 CMR 110.R6.2.2.2, 4.1 and 4.3.

**110.R6.2.4.2.4.** No home improvement contractor or subcontractor shall be required to pay the contribution to the guaranty fund more than once unless the fund administrator determines that the amount of the fund is insufficient to maintain it at a level commensurate with claims made against the fund. If such a determination is so made, after conducting a public hearing, the director, in consultation with the fund administrator, may

assess each registered home improvement contractor or subcontractor an appropriate fee, the amount to be determined by the commissioner of administration and finance, which shall not exceed the amount of the original assessment; provided, however, that the director shall not assess any registrant more than once in any 12-month period.

#### **110.R6.2.5 Responsibilities of Each Registrant.**

**110.R6.2.5.1 Changes in Status.** Each registrant shall be responsible for reporting, in writing, within 30 days, changes in trade name or address or additions of business name(s), and any other pertinent changes in circumstances to the director.

**110.R6.2.5.2 Display of Certificate Number.** Every contract, building permit and advertisement for residential contracting as defined in 780 CMR 110.R6 shall display the home improvement contractor's or subcontractor's certificate of registration number.

**110.R6.2.5.3 Return of Certificate.** Upon the expiration, termination or voluntary surrender of a registration, the registrant shall deliver the certificate to the director who shall cancel the registration and endorse the date of expiration, termination or surrender. In such case, no further residential contracting work will be engaged in by the contractor or subcontractor.

### **780 CMR 110.R6.3 ENFORCEMENT AND COMPLAINT PROCEDURES**

**110.R6.3.1 Basis of Complaint.** Only work performed pursuant to a contract between a homeowner and a contractor may be the basis of such complaint.

**110.R6.3.2 Complaints.** All complaints against a contractor must be in writing on a form provided by the director. Any person, building official, the Guarantee Fund administrator, or the Board may file a complaint. A complaint may allege wrongdoing against an HIC registration and a CSL holder on the same complaint form if the issues giving rise to the filing of the complaint are reasonably related. All complaints must be received by the Board within three years from the date the contract giving rise to the complaint was entered into by the parties.

**110.R6.3.3 Review and Investigation of Complaints.** Every complaint filed shall be reviewed by the director. If the director determines that the complaint alleges plausible potential violations by the contractor of 780 CMR or M.G.L. c. 142A, a hearing shall be convened. The director may investigate a complaint prior to scheduling a hearing. Failure of a complainant to cooperate in the investigation shall be grounds for dismissal of a complaint.

If a complaint alleges violations of 780 CMR 110.R5 in addition to allegations pursuant to the

provisions of 780 CMR 110.R6, one hearing may be held on all issues alleged provided that they all arise out of the same set of facts and circumstances.

Upon receipt of a complaint, the director shall send a letter acknowledging receipt to the complainant, the registration holder complained of, and the appropriate municipal building official. A copy of the complaint and all attachments shall be mailed to the registration holder with the acknowledgment letter.

**110.R6.3.4 Notice of Hearing.** If the director determines that a hearing shall be held to resolve a complaint, reasonable notice of the hearing shall be provided to the complainant and the complained of registration holder. Mailing of the notice to the address on record with the BBRS shall be deemed satisfactory notice to the registrant. The notice of hearing shall contain:

1. The name of the complainant.
2. The date, time and place of said hearing.
3. The location of the incident giving rise to the complaint.
4. Notice that either party may review the Board's complaint file by appointment.

**110.R6.3.5 Hearing.** Hearings held pursuant to this chapter shall be conducted pursuant to 801 CMR 1.02: *Informal/Fair Hearing Rules*. Any party may be represented by legal counsel. At the hearing, all parties shall be permitted to present an opening statement, testify on their own behalf, cross-examine all witnesses, present any relevant witness testimony, present any relevant documentary evidence, and offer a closing argument. The Hearing Officer may question any witness and include any records kept by the Board as exhibits. The Hearing Officer may, at their discretion, conclude the hearing at any time and issue a decision based on the evidence presented.

If a contractor does not appear for the hearing, the Hearing Officer may conduct a hearing and render a decision based upon the evidence presented only after making a finding that the contractor was provided reasonable notice of the hearing as required by 780 CMR 110.R6.3.4.

**110.R6.3.6 Decisions and Discipline of License Holders.** The Hearings Officer shall issue a written decision after the hearing. Decisions shall be issued in a reasonably prompt manner. The hearing officer may suspend a registration for a fixed period of time, revoke a registration permanently, or reprimand the registration holder. In conjunction with these disciplinary measures, the hearing officer may assess a fine of up to \$2000 for each violation found. Any registration that is suspended or revoked shall be forwarded to the Board immediately. A person or entity whose registration is revoked may apply in writing to the Board for reinstatement no sooner than two years from the date of the revocation.

**110.R6.3.7 Cause for Reprimand, Suspension or Revocation.** The following shall be grounds for reprimand, suspension or revocation of a home improvement contractor registration:

1. the applicant made a false statement on their application for registration;
2. a registrant made a false statement to the Board;
3. any violation of 780 CMR;
4. the registrant failed to fully cooperate with the director's investigation into a complaint;
6. the registrant failed to turn over a suspended registration to the director;
7. the registrant failed to abide by a mandate or order of the director or Board; or
8. the registrant committed an act prohibited by M.G.L. c. 142A, § 17 or any other provision of M.G.L. c.142A.

**110.R6.3.8 Appeal.** Any person aggrieved by a decision of the Hearings Officer may, in writing, request review of said decision by the Board. The filing of such a petition shall not serve to stay any disciplinary action taken by the Hearings Officer. The Board may review such decision at its discretion. Such review is an administrative review that shall be based solely on the administrative record and is not to be construed as a second Hearing on the same complaint. After review, the Board may either deny the petition or remand the matter to the Hearings Officer for further proceedings as directed. The filing of an appeal with the Board shall serve to toll the timing provisions of M.G.L. c. 30A, § 14 until such time as a final decision is rendered by the Board.

#### **780 CMR 110.R6.4 ENFORCEMENT ACTIONS**

**110.R6.4.1 Administrative Penalties.** If the director determines that any registrant is liable for a violation of any of the provisions of 780 CMR 110.R6 or M.G.L. c. 142A, the director may institute one or more of the following actions.

##### **110.R6.4.1.1 Allowable Actions.**

1. Suspend the registrant's certificate of registration for such period of time as shall be determined by the director;
2. Revoke the registrant's certificate of registration;
3. Send a letter of reprimand to the registrant; and
4. Assess an administrative penalty not to exceed \$2,000.00, payable within 30 days of the date of the order of assessment, for each violation of any provisions of 780 CMR 110.R6 and M.G.L. c. 142A committed by the home improvement contractor(s) or sub-contractor(s) who are registered or required to be registered under 780 CMR 110.R6. This penalty shall be deposited to the fund.

**110.R6.4.1.2 Pendency of a Claim.** The pendency of a claim against the fund shall not limit the director from taking enforcement action against any registrant pursuant to 780 CMR 110.R6 or M.G.L. c. 142A.

##### **110.R6.4.2 Fines and Criminal Penalties.**

**110.R6.4.2.1 Sought by Attorney General or District Attorney.** Fines and imprisonment specified in 780 CMR 110.R6 and M.G.L. c. 142A may be sought by the attorney general or a district attorney, and such fines and imprisonment shall be in addition to any administrative penalty otherwise applicable thereto.

**110.R6.4.2.2 Operating Without a Certificate.** Any home improvement contractor or subcontractor who shall knowingly, willfully, or negligently operate without obtaining a certificate of registration as required by 780 CMR 110.R6 and M.G.L. c. 142A and who is not otherwise exempt from the registration requirements or any home improvement contractor or subcontractor who continues to operate after revocation of or during suspension of, or who had failed to renew his certificate of registration, shall be punished by a fine not exceeding \$5,000.00 or imprisonment not exceeding two years or both.

**110.R6.4.2.3 Other Violations.** Any person who knowingly and willfully violates any of the provisions of 780 CMR 110.R6 or M.G.L. c. 142A, with respect to which a greater penalty is not otherwise provided by the provisions of 780 CMR 110.R6 or M.G.L. c. 142A or by any other law may be punished by a fine of not more than \$2,000.00 or by imprisonment for not more than one year or both.

##### **110.R6.4.3 Injunctions, Restitution.**

**110.R6.4.3.1 Order from Superior Court.** If the director concludes that the continuing conduct of any person alleged to be in violation of 780 CMR 110.R6 and M.G.L. c. 142A may result in substantial or irreparable harm to any citizen of the Commonwealth, the director may seek:

1. A permanent or temporary injunction with respect to the conduct from the superior court of any county in which the alleged violation is occurring, or in which the violator has its principal place of business; or
2. An order requiring restitution or satisfactory completion of the home improvement contractor's contract with an owner.

**110.R6.4.3.2 Bond Not Required.** The director shall not be required to file a bond or to show a lack of an adequate remedy at law when seeking an injunction under M.G.L. c. 142A against any person, association, partnership, or corporation not registered under 780 CMR 110.R6 and M.G.L. c. 142A.

#### **110.R6.4.4 Prohibited and Deceptive Acts.**

**110.R6.4.4.1 Prohibited Acts.** The following acts are prohibited by registered home improvement contractors or subcontractors, and those required to register under the provisions of 780 CMR 110.R6 and M.G.L. c. 142A.

1. Operating without a certificate of registration issued by the director;
2. Abandoning or failing to perform, without justification, any contract or project engaged in or undertaken, or deviating from or disregarding plans or specifications in any material way without the consent of the owner, except for changes in plans, specifications, or construction techniques required by building regulations;
3. Failing to credit the owner any payment they have made to the contractor or his salesperson in connection with a residential contracting transaction;
4. Making any material misrepresentation in the procurement of a contract or making any false promise of a character likely to influence, persuade or induce the procurement of contract;
5. Acting directly, regardless of the receipt or expectation of receipt of compensation or gain from the mortgage lender, in connection with a residential contracting transaction by preparing, offering or negotiating or attempting to or agreeing to prepare, arrange, offer or negotiate a mortgage loan on behalf of a mortgage lender;
6. Acting as a mortgage broker or agent for any mortgage lender;
7. Publishing, directly or indirectly, any advertisement relating to residential contracting which does not contain the home improvement contractor's or subcontractor's certificate of registration number or which does contain an assertion, representation or statement of fact which is false, deceptive, or misleading;
8. Advertising in any manner that a registrant is registered under 780 CMR 110.R6 unless the advertisement includes an accurate reference to the home improvement contractor's or subcontractor's certificate of registration;
9. Violating any of the building laws of the Commonwealth or of any political subdivision thereof;
10. Misrepresenting a material fact by an applicant in obtaining a certificate of registration;
11. Failing to notify the director of any change of trade name or address as required by 780 CMR 110.R6.2.5.1;
12. Conducting a residential contracting business in any name other than the one in which the home improvement contractor or

subcontractor is registered;

13. Failing to pay for materials or services rendered in connection with his/her operating as a home improvement contractor or subcontractor where he/she has received sufficient funds as payment for the particular construction work, project or operation for which the services or materials were rendered or purchased;
14. Failing to comply with any order, demand or requirement lawfully made by the director or fund administrator under and within the authority of 780 CMR 110.R6 and M.G.L. c. 142A;
15. Demanding or receiving payment in violation of 780 CMR 110.R6.5.2. Item 5, 6, or 5.2.2;
16. Violating any other provisions of 780 CMR 110.R6 and M.G.L. c. 142A;
17. Failing to pay to the guaranty fund in full, including interest, any amount paid from said fund because of the conduct of the registrant;
18. Any of the grounds for refusal to register or renew in 780 CMR 110.R6.2.2.2 are also considered prohibited acts;
19. Failing, within 21 days, to comply with, or advise the owner of intent to comply with, or appeal the decision of, an arbitrator as provided for in M.G.L.c. 142A and 201 CMR 14.00;
20. Failing to display the registration number on every contract, building permit and advertisement as required by 780 CMR 110.R6.5.2.1 Item 2, 110.R6.4.4.1 Item 2, 110.R6.4.4.2 Item 7, and 110.R6.4.4.2 Item 8.

**110.R6.4.4.2 Deceptive Act.** Violations of any of the provisions of 780 CMR 110.R6 and M.G.L. c. 142A shall constitute an unfair or deceptive act under the provisions of M.G.L. c. 93A.

#### **780 CMR 110.R6.5 CONTRACTS**

**110.R6.5.1 Contract in Writing.** Every agreement between a home improvement contractor and an owner to perform residential contracting services in an amount in excess of \$1,000.00 shall be in writing.

#### **110.R6.5.2 Contents of Contract.**

**110.R6.5.2.1 Documents and Information.** Every agreement to perform residential contracting services in excess of \$1,000.00 shall include, but not be limited to, the following documents and information:

1. The complete agreement between the owner and the contractor and a clear description of any other documents which are or shall be incorporated into said agreement;
2. The full names, federal ID number if applicable, (exclusive of social security number), address (exclusive of post office box addresses), registration number of the home improvement contractor, the name(s) of the

salesperson(s), if any, who solicited or negotiated the contract and the date when said contract was executed by the parties;

3. The date on which the work under the contract is scheduled to begin and the date on which said work is scheduled to be substantially completed;

4. A detailed description of the work to be done and the materials to be used;

5. The total amount agreed to be paid for the work to be performed under the contract;

6. A time schedule of payments to be made under said contract and the amount of each payment stated in dollars, including all finance charges, if any. Any deposit required under the contract to be paid in advance of the commencement of work under said contract shall not exceed the greater of 1/3 of the total contract price or the actual cost of any material or equipment of a special order or custom made nature, which must be ordered in advance of the commencement of the work, in order to assure that the project will proceed on schedule. No final payment shall be demanded until the contract is completed to the satisfaction of the parties thereto;

7. The signature of all parties shall be affixed to the contract;

8. There shall be a clear and conspicuous notice appearing in the contract stating:

- a. That all home improvement contractors and subcontractors shall be registered by the director and that any inquiries about a contractor or subcontractor relating to a registration should be directed to.

Director  
Home Improvement Contractor  
Registration  
One Ashburton Place, Room 1301  
Boston, MA 02108

(617) 727-8598

b. The registration number of the home improvement contractor on the first page of the contract.

c. The owner's three-day cancellation rights under M.G.L. c. 93, § 48; M.G.L. c. 140D, § 10 or M.G.L. c. 255D, § 14, as may be applicable.

d. All warranties and the owner's rights under the provisions of 780 CMR 110.R6 and M.G.L. c. 142A;

e. In ten point bold type or larger, directly above the space provided for the signature, the following statement.

DO NOT SIGN THIS CONTRACT IF  
THERE ARE ANY BLANK SPACES

f. Whether any lien or security interest is on the residence as a consequence of the contract.

9. An enumeration of such other matters upon which the owner and the contractor may lawfully agree; provided, however that no such agreement may waive any rights conveyed to the owner under the provisions of 780 CMR 110.R6 and M.G.L. c. 142A;

10. Any other provision otherwise required by the applicable laws of the Commonwealth.

**110.R6.5.2.2 Permit Notice.** Any contract entered into between a home improvement contractor and an owner shall contain a clause informing the owner of the following:

- 1. Any and all necessary construction-related permits;
- 2. That it shall be the obligation of the home improvement contractor to obtain such permits as the owner's agent;
- 3. That owners who secure their own construction-related permits or deal with



unregistered contractors will be excluded from the guaranty fund provisions of M.G.L. c. 142A;

**110.R6.5.2.3 Acceleration of Payment.** No contract shall contain an acceleration clause under which any part or all of the balance not yet due may be declared due and payable because the holder deems himself to be insecure. However, where the contractor deems himself to be insecure he/she may require as a prerequisite to continuing said work that the balance of funds due under the contract, which are in the possession of the owner, shall be placed in a joint escrow account requiring the signatures of the home improvement contractor and owner for withdrawal.

**110.R6.5.2.4 Copy to Owner.** At the time of signing, the owner shall be furnished with a copy of the contract signed by both the home improvement contractor and the owner. No work shall begin prior to the signing of the contract and transmittal to the owner of a copy of such contract.

**110.R6.5.2.5 Arbitration.** Any contract entered into between a home improvement contractor and owner may provide that the home improvement contractor may initiate alternative dispute resolution through any private arbitration services approved by the secretary, as provided in M.G.L. c. 142A; provided, that said alternative dispute resolution provision is clearly and conspicuously disclosed in the contract, in language designated by the secretary, and that each party separately signs and dates the provision, thereby assenting to the procedure. The following language and format is acceptable.

THE CONTRACTOR AND THE HOMEOWNER HEREBY MUTUALLY AGREE IN ADVANCE THAT IN THE EVENT THE CONTRACTOR HAS A DISPUTE CONCERNING THIS CONTRACT, THE CONTRACTOR MAY SUBMIT SUCH DISPUTE TO A PRIVATE ARBITRATION SERVICE WHICH HAS BEEN APPROVED BY THE SECRETARY OF THE OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATIONS AND THE CONSUMER SHALL BE REQUIRED TO SUBMIT TO SUCH ARBITRATION AS PROVIDED IN M.G.L. c. 142A.

---

Contractor

---

Owner

**NOTICE:** THE SIGNATURES OF THE PARTIES ABOVE APPLY ONLY TO THE AGREEMENT OF THE PARTIES TO ALTERNATIVE DISPUTE SETTLEMENT

INITIATED BY THE CONTRACTOR. THE OWNER MAY INITIATE ALTERNATIVE DISPUTE RESOLUTION EVEN WHERE THIS SECTION IS NOT SEPARATELY SIGNED BY THE PARTIES.

### **110.R6.5.3 Dispute Resolution.**

**110.R6.5.3.1 Court Action.** Any party may bring an action to enforce any provisions of 780 CMR 110.R6 and M.G.L. c. 142A, in superior court, the district court, or the small claims division of the district court.

**110.R6.5.3.2 Owner Right to Arbitration.** In the alternative, an owner may request that a dispute resulting from and relating to residential contracting be decided under the terms of a private arbitration service approved by the secretary.

**110.R6.5.3.3 Contractor Right to Arbitration.** The home improvement contractor may initiate dispute resolution through private arbitration services approved by the secretary, provided that the contract between the owner and the home improvement contractor contains such a clause as provided in 780 CMR 110.R6.5.2.5.

**110.R6.5.4 Validity of Contract.** Contracts which fail to comply with the requirements of 780 CMR 110.R6 and M.G.L. c. 142A shall not be invalid solely because of noncompliance.

## **780 CMR 110.R6.6 SUPPLEMENTARY IDENTIFICATION CARDS**

### **110.R6.6.1 Definitions.**

**Certificate of Registration.** The document issued by the Director showing the registrant's certificate number and other data as required by the director.

**Identification Card.** The document issued to the responsible individual or to one or more individuals in the employ of the applicant/registrant.

**110.R6.6.2 Certificates of Registrants.** For applicants registering as individuals, the certificate of registration and identification card will be issued in the name of the registrant. Only one identification card will be issued to individual registrants.

#### **110.R6.6.2.2 Non-individual Registrants.**

**110.R6.6.2.2.1** If the Applicant is a corporation, partnership, proprietorship with a fictitious name, or other non-individual entity, the certificate of registration and the initial identification card will bear the name of the registrant entity and the individual responsible for the home improvement residential contracting activities of the registrant.

**110.R6.6.2.2.2** Supplementary identification cards may be issued, upon request of the

registrant, to named officers, partners, of key individuals in the employ of the registrant under the certificate of registration number of the applicant entity, upon submission of the appropriate request form and fee. The applicant is responsible for the prompt return of individual identification cards if there is a change in status of individuals holding such supplementary cards.

**110.R6.6.3 Fees.** For each additional identification card request in accordance with 780 CMR

110.R6.2.2.1, an additional fee per card in an amount of \$10.00 must accompany the request for additional cards.

**110.R6.6.4 Expiration.** Supplementary cards will expire on the same date as the expiration date of the registrant entity, and must be renewed along with the renewal of the registrant entity’s registration by submission of the required application and fee of \$10.00 per card requested.

**780 CMR 110.R7**

**CERTIFICATION OF INSPECTORS OF BUILDINGS, BUILDING  
COMMISSIONERS AND LOCAL INSPECTORS**

(Note: 780 CMR 110.R7 is unique to Massachusetts)

**FORWARD**

Contained in 780 CMR R7 are the *rules and regulations* for the certification of all inspectors of buildings, building commissioners and local inspectors (collectively referred to as building code enforcement officials) of the Board of Building Regulations and Standards (BBRS). In accordance with M.G.L. c. 143, §§3 and 94, the BBRS is authorized to adopt rules and regulations which govern the administration of such program..

**780 CMR 110.R7.1 General Provisions**

- 110.R7.1.1 Title
- 110.R7.1.2 Definitions
- 110.R7.1.3 Scope, intent
- 110.R7.1.4 Powers and duties
- 110.R7.1.5 Inspector Certification Advisory  
Committee (Building Official  
Certification Committee)
- 110.R7.1.6 Categories of certification
- 110.R7.1.7 Certifications required

**780 CMR 110.R7.1 General Provisions**

- 110.R7.2 Requirements for Initial Certification
- 110.R7.2.1 Application
- 110.R7.2.2 Building Code Enforcement Officials in  
office as of November 12, 1992
- 110.R7.2.3 After November 12, 1992
- 110.R7.2.4 Requirements for certification as a local  
inspector
- 110.R7.2.5 Requirements for certification as an  
inspector of buildings/building  
commissioner

**780 CMR 110.R7.3 Requirements for  
Maintenance of Certification**

- 110.R7.3.1 Continuing education
- 110.R7.3.2 Renewal of certification
- 110.R7.4 Procedures for Complaints
- 110.R7.4.1 Complaints
- 110.R7.4.2 Revocation of certificates and alternate  
sanctions
- 110.R7.4.3 Violations and penalties

**780 CMR 110.R7.1 GENERAL PROVISIONS**

**110.R7.1.1 Title.** 780 CMR 110.R7 entitled *Certification of Inspectors of Buildings, Building Commissioners and Local Inspectors* (hereinafter collectively referred to as Building Code Enforcement Officials) is authorized and promulgated by the State Board of Building Regulations and Standards under the authority of M.G.L. c. 143, §§ 3 and 94.

**110.R7.1.2 Definitions.** Any terms not herein defined shall assume the definition of the term as used elsewhere in 780 CMR.

**BBRS.** State Board of Building Regulations and Standards

**REGISTRANT.** Any individual registered with the Board of Building Regulations and Standards (BBRS) as a building code enforcement official in the capacity of an inspector of buildings/building commissioner or local inspector.

**110.R7.1.3 Scope, Intent.** 780 CMR 110.R7 shall control all matters relating to qualifications and certification of all building code enforcement officials engaged in or to be engaged in the administration and enforcement of 780 CMR; categories of certified building code enforcement officials; procedures for application, issuance, denial and revocation of certifications; approval of training and/or educational programs offered to meet the requirements for certification; maintenance of certification through continuing education; application fees for certification; and enforcement of 780 CMR 110.R7.

It is the purpose of 780 CMR 110.R7 to establish standards and procedures for certification, and to require all persons performing duties with respect to the inspection of building construction for any political subdivision within the Commonwealth to be certified as provided in 780 CMR 110.R7.

**110.R7.1.4 Powers and Duties.** The BBRS, working through the Administrator and the Board staff, shall have the following responsibilities in addition to all others provided in 780 CMR and 780 CMR 110.R7.

**110.R7.1.4.1.** Upon recommendations from the Building Official Certification Committee, established under 780 CMR 110.R7.1.5, to issue certifications to individuals deemed qualified as provided for herein.

**110.R7.1.4.2.** To maintain accurate records of all applications for certification and any official action thereon and to make such records available for inspection by the public at all reasonable times.

**110.R7.1.4.3.** To suspend or revoke a certification provided for herein upon the establishment of good cause as defined by 780 CMR 110.R7.4.2.

**110.R7.1.4.4.** Any person aggrieved by any notice, action, ruling or order of the Board, or the Building Official Certification Committee with respect to 780 CMR 110.R7, may have a right to

a hearing as provided for by law.

**110.R7.1.5 Inspector Certification Advisory Committee** (Building Official Certification Committee):

**110.R7.1.5.1.** There is hereby established in the BBRS the Inspector Certification Advisory Committee hereafter known as the *Building Official Certification Committee*. This Committee shall be supported by such staff of the BBRS as may be required for the effective operation of 780 CMR 110.R7.

**110.R7.1.5.2 Powers and Duties.** The Building Official Certification Committee shall have the responsibility to advise and to recommend to the BBRS on all items relating to the certification of building code enforcement officials, including, but not limited to:

1. Issuing certificates
2. Reviewing applicant credentials
3. Maintaining applicant and certified inspector records
4. Hearing complaints and appeals pertaining to inspector certification
5. Reviewing and approving all courses of study, seminars, and other educational programs as deemed necessary, for continuing education requirements.
6. Monitoring all appointments to assure compliance with 780 CMR 110.R7.
7. Considering reciprocity with other states (upon petition of the Building Official Certification Committee on forms provided for such purpose).

**110.R7.1.5.3 Make-up of the Committee.** The Building Official Certification Committee shall consist of nine members appointed by the BBRS as follows: (Terms of committee members are as established by lot at the March 31, 1993 meeting.)

1. One member of the BBRS or his or her designee
2. Six members who are active building officials consisting of:
  - a. One member from each of the three Municipal Building Official's Associations (Southeastern Building Officials Association, Building Officials of Western Massachusetts, Massachusetts Building Commissioners and Inspectors Association).
  - b. Three members at large to be appointed by the BBRS.
3. One member from academia who is an educator of construction at the college level (e.g. architectural, civil, structural) to be appointed by the BBRS.
4. One member of the Massachusetts Municipal Association.

**110.R7.1.6 Categories of Certification.**

**110.R7.1.6.1.** Categories of certification for building code enforcement officials are as follows:

**110.R7.1.6.1.1 Inspector of Buildings or Building Commissioner.** An individual certified as an inspector of buildings/building commissioner shall perform the duties as defined in 780 CMR 106 of the *Sixth Edition of the Massachusetts State Building Code*, 780 CMR 5106 and M.G.L. c. 143, as applicable.

**110.R7.1.6.1.2 Local Inspector.** An individual certified as a local inspector shall perform the duties as defined in 780 CMR 106 of the *Sixth Edition of the Massachusetts State Building Code*, 780 CMR 5106 and M.G.L. c. 143, as applicable.

**110.R7.1.6.1.3 Conditional Appointment of a Building Code Enforcement Official.** A conditional appointee shall meet the requirements of 780 CMR 110.R7.1.7.4 through 780 CMR 110.1.7.6.3.

**110.R7.1.6.1.4 Alternate Inspectors of Buildings/Building Commissioners.** An alternate inspector of buildings/building commissioner shall be certified prior to appointment.

**110.R7.1.7 Certifications Required.**

**110.R7.1.7.1.** After November 12, 1992, no individual shall be permanently appointed to the position of inspector of buildings, building commissioner or local inspector in a municipal enforcing agency for which a certification requirement has been established by 780 CMR 110.R7, unless that individual has been deemed qualified and certified in that category by the Building Official Certification Committee.

**110.R7.1.7.1.1 Conditional Appointments.** Conditional appointments may be made pursuant to 780 CMR 110.R7.1.7.4, 1.7.5 and 1.7.6.

**110.R7.1.7.2 Reporting by Appointing Authorities.** Immediately following appointment, the clerk of each city or town shall report to the BBRS, the name, title and status of each new employee who is appointed as an inspector of buildings, building commissioner or local inspector. Said report shall be provided on forms as prescribed by the BBRS for said purpose and shall be submitted in attestation under the pains and penalties of perjury that said new employee meets or exceeds the minimum qualifications as defined by M.G.L. c. 143, § 3 and 780 CMR 105.3, 105.4 of the *Sixth Edition of the Massachusetts State Building Code*, 780 CMR 5105.3 and 5105.4, as applicable.

**110.R7.1.7.3 Historical Note.** Any individual employed as inspector of buildings, building

commissioner or local inspector and who was in office on November 12, 1992 and who was qualified (in accordance with M.G.L. c. 143, § 3) to be in office at time of hire, and who presented acceptable evidence of these facts to the BBRS, shall be deemed certified in the category held on said date, and shall be provided with a certificate by the BBRS.

**110.R7.1.7.4 Conditional Appointments.** After November 12, 1992, individuals who meet or exceed the experience requirements pursuant to M.G.L. c. 143, § 3 and 780 CMR, but who are not certified under the provisions of 780 CMR 110.R7 may be appointed on a conditional basis only.

**110.R7.1.7.5 Regulations for the conditional appointment of Building Code Enforcement Officials.**

**110.R7.1.7.5.1.** Any individual conditionally appointed as a building code enforcement official, on or after November 12, 1992 who is not certified in the appropriate category at the time of the conditional appointment; shall comply with the following:

1. Immediately upon appointment, the city or town clerk shall report the conditional appointment to the BBRS in accordance with 780 CMR 110.R7.1.7.2.
2. Within the first six months of employment the conditional appointee shall make application to take the examination(s) required for the appropriate category of certification as identified in 780 CMR 110.R7.2.0.
3. Within one year following the first six months of employment a conditional appointee who is appointed as an inspector of buildings/building commissioner shall attain a passing score on all of the examinations required for that category of certification.
4. Within six months following the first six months of employment a conditional appointee who is appointed as a local inspector shall attain a passing score on all of the examinations required for that category of certification.
5. In accordance with 780 CMR 110.R7.1.7.6, a conditional appointee may petition the Building Official Certification Committee in writing for an extension of time to comply with the examination schedule of 780 CMR 110.R7. Upon establishment of cause, the Building Official Certification Committee may grant such extensions of time as it may consider appropriate as detailed in 780 CMR 110.R7.1.7.6.

**110.R7.1.7.5.2.** Conditional appointees shall notify the BBRS of any change in the status of their employment, within one month of such change.

**110.R7.1.7.6 Requests for Extensions of Time to Comply with Examination Schedules.**

**110.R7.1.7.6.1.** Upon written petition to the Building Official Certification Committee, any conditional appointee unable to comply with the examination schedule as cited in 780 CMR 110.R7.1.7.5 may for cause, be granted an extension of time in order to comply. Petitions shall be forwarded to the clerk of said committee on forms for such purpose, and addressed to the office of the BBRS. The conditional appointee shall state all reasons to substantiate the request for an extension of time. Conditional appointees who have not attempted the examination schedule as herein defined during the prescribed period shall not be granted an extension, and no conditional appointee shall be afforded more than three extensions of time beyond the prescribed period for the level of certification sought.

**110.R7.1.7.6.2.** The Building Official Certification Committee shall, within ten days of any action taken by the committee pursuant to 780 CMR 110.R7, notify the appointing authority in writing of such action.

**780 CMR R7.2 REQUIREMENTS FOR  
INITIAL CERTIFICATION**

**110.R7.2.1 Application.** Any candidate for certification in any category of building code enforcement official issued pursuant to 780 CMR 110.R7 shall submit an application to the BBRS, accompanied by the required application fee (if any), on forms provided for this purpose by the BBRS. The application shall include such information and documentation as the BBRS may require pursuant to 780 CMR 110.R7.

**110.R7.2.2 Building Code Enforcement Officials in Office as of November 12, 1992 (Historical Note).** Upon receipt of acceptable evidence as established by the BBRS, signed by the city or town clerk and the appointing authority in attestation that the applicant for certification was employed in the position of inspector of buildings, building commissioner or local inspector and met the qualification requirements of said position pursuant to M.G.L. c. 143, § 3 and 780 CMR as of the date of hire, the applicant shall be deemed certified in the applicable category and shall be issued a certificate. The certificate shall indicate the name of the individual and the category of certification and other information as may be deemed necessary by the BBRS.

**110.R7.2.3.** After November 12, 1992, applicants for certification as a Building Code Enforcement Official shall meet the requirements of 780 CMR 110.R7.2.4

**110.R7.2.4 Requirements for Certification as a Local Inspector:**

**110.R7.2.4.1** All candidates shall meet or exceed the qualifications for the position of local inspector pursuant to M.G.L. c. 143, § 3 and 780 CMR prior to taking any examinations. The Board of Building Regulations via the certification committee shall approve all candidates prior to taking any examinations. The certification committee shall maintain a list of all qualified candidates for any and all city and towns appointing building officials.

**110.R7.2.4.2.** All candidates shall attain a passing score in all examinations required for certification as either a Building Plans Examiner (identified as Exams 1B, 1C, 3B and 3C) or Building Inspector (identified as Exams 1A, 1B and 3B) as defined by the National Certification Program for Construction Code Inspectors (NCPCCI) or equivalent exam categories as approved by the BBRS for such purpose and as offered by the International Code Council (ICC).

**110.R7.2.4.3 Prior approval for examination as a Local Inspector.** No candidates shall be allowed to take said examinations without prior approval of the Board of Building Regulations and Standards or the certification committee at the Board's discretion.

**110.R7.2.5 Requirements for Certification as an Inspector of Buildings/Building Commissioner.**

**110.R7.2.5.1.** All candidates shall meet or exceed the qualifications for the position of inspector of buildings/building commissioner pursuant to M.G.L. c. 143, § 3 and 780 CMR prior to any examinations. The Board of Building Regulations and Standards via the certification committee shall approve all candidates prior to taking any examinations. The certification committee shall maintain a list of all qualified candidates for any and all city and towns appointing building officials.

**110.R7.2.5.2.** All candidates shall meet the examination requirements for certification as a local inspector pursuant to 780 CMR 110.R7.2.4.2, or hold a certification as a local inspector pursuant to 780 CMR 110.R7.2.2.

**110.R7.2.5.3.** All candidates shall attain passing scores in all examinations required for certification as a Certified Building Official as defined by the Certified Building Official Program of the Council of American Building Officials (CAB O) or equivalent exam categories as approved by the BBRS for such purpose and as offered by the International Code Council (ICC).

**110.R7.2.5.4 Prior Approval for Examination as an Inspector of Buildings/Building Commissioner.** No candidates shall be allowed to take said examinations without prior approval of the Board of Building Regulations and

Standards or the certification committee at the Board's discretion.

**110.R7.2.6 Retired Persons.** Any person who has been duly certified in accordance with 780 CMR 110.R7 and who retires from service in good standing, may petition the committee to receive "retired status" certification. Upon approval said certification shall be denoted "retired" and shall not be deemed revoked. Revocation shall only be invoked for cause. Any person who has been approved for "retired status" certification and who wishes to reactivate said certification shall comply with the examination schedule as defined in 780 CMR 110.R7 for the level of certification sought.

**780 CMR 110.7.3 REQUIREMENTS FOR MAINTENANCE OF CERTIFICATION STATUS**

**110.R7.3.1 Continuing Education.**

**110.R7.3.1.1.** Within each three year period following initial certification, the registrant shall complete 45 hours of continuing education credit acceptable to the Building Official Certification Committee. Conditional appointees as defined by 780 CMR 110.R7 shall attain at least one contact hour of education credit for each month of employment until such time as the conditional appointee has successfully completed the required examination schedule and is certified as prescribed.

**110.R7.3.1.2.** The Committee may publish a list of acceptable educational programs, courses, seminars, and the like. The Committee may also accept educational activities in which registrants have participated after the fact, upon application and review of the course information. The Committee shall assign credits to each educational/training event. The Committee shall issue policies and procedures, separate from 780 CMR 110.R7 relative continuing education requirements.

**110.7.3.2 Renewal of Certificate.**

**110.R7.3.2.1 Term of Certificate.** Each certified individual shall maintain a record of his/her continuing education. Credit hours shall be reported to the BBRS or other approved agencies as prescribed by the Committee's policies and procedures relative to continuing education. The BBRS shall maintain a record of each inspector's progress.

At the end of each three year period, each inspector who has successfully maintained his/her continuing education credit shall be duly notified by the BBRS.

**110.R7.3.3.** In accordance with M.G.L. c. 143, § 99, no building code enforcement official attending BBRS required educational programs, shall lose any

rights relative to compensation or vacation.

## **780 CMR 110.R7.4 PROCEDURES FOR COMPLAINTS**

### **110.R7.4.1 Complaints.**

**110.R7.4.1.1 Cause for Complaint.** Any registrant who has been judged to have violated the provisions of 780 CMR 110.R7 or 780 CMR by a competent court having jurisdiction or has been judged to have violated procedures as defined by the State Ethics Commission for acts pertinent to his\her performance as a certified building code enforcement official may be entitled to a hearing in accordance with M.G.L. c. 30A before the Building Official Certification Committee or subcommittee thereof in respect to retention of his\her certification.

**Exception:** The BBRS and\or members of the Building Official Certification Committee or sub-committee thereof, may convene hearings for those registrants who fail to attain continuing education credits as defined by 780 CMR 110.R7.7.3.

**110.R7.4.1.2 Hearings on Complaints.** If a hearing is to convene, the committee shall give at least ten days notice to all those party to the complaint. The sending of notice to the address recorded on the records of the BBRS shall be deemed sufficient notice.

**110.R7.4.1.3 Notice of Hearings.** The notice shall contain:

1. The name of the complainant
2. A copy of the complaint
3. The date, time and place of said hearing.

The complete file of complaint shall be available for inspection at the office of the BBRS during regular business hours. Parties may present written or oral evidence to refute or mitigate any charge contained in the complaint and present witnesses in his or her behalf. In the event that the committee votes to take action against said certification pursuant to this hearing, the building code enforcement official, upon notice of the decision, shall immediately comply with said action.

**110.R7.4.1.4 Continuation of Hearings.** the committee, in its discretion, may continue the date for hearing upon request by building official, the complainant or the committee itself.

**110.R7.4.1.5 Timing of Decisions.** The committee shall make a decision within 15 days of the hearing. A written decision shall be issued within 30 days of the hearing date.

**110.R7.4.1.6 Decisions.** The decision shall be final and binding upon the building code enforcement official and the complainant.

**110.R7.4.1.7 Notice of Action.** In the event that the committee votes to take action against said

certification pursuant to this hearing, the building code enforcement official, upon notice of the decision, shall immediately comply with said action.

**110.R7.4.1.8 Appeal.** Any person aggrieved by a decision of the committee may appeal such decision to a court of law or equity in conformance with M.G.L. c. 30A, § 14.

### **110.R7.4.2 Revocation of Certificates and Alternative Sanctions.**

**110.R7.4.2.1.** The BBRS, upon recommendation of the Committee, and subject to the requirements of Administrative Practices as defined by M.G.L. c. 30A, may suspend or revoke a certification, or assess any other penalties as provided for by law, if it is determined that the registrant: (The following is not an exhaustive list.)

1. Has obtained a certification by fraud or misrepresentation, or the person named in the certificate has obtained it by fraud or misrepresentation as judged by members of the Building Official Certification Committee following a hearing on such matters;
2. Has aided or abetted in practice as a certified building code enforcement official any person not authorized to practice as a certified building code enforcement official under the provisions of 780 CMR 110.R7 as judged by members of the Building Official Certification Committee following a hearing on such matters;
3. Has fraudulently or deceitfully practiced as a certified building code enforcement official as judged by the State Ethics Commission and/or a competent court having jurisdiction and following a hearing before members of the Building Official Certification Committee on such matters;
4. Has been grossly negligent or has engaged in misconduct in the performance of any of his or her duties as judged by the State Ethics Commission and/or a competent court having jurisdiction and following a hearing before members of the Building Official Certification Committee on such matters;
5. Has failed, over a period of time, to maintain continuing education requirements as specified in 780 CMR 110.R7 as judged by members of the Building Official Certification Committee following a hearing on such matters;
6. Has been found to have failed to report an offer, or bribe, or other favor in a proceeding under 780 CMR 110.R7 or other appropriate law of this or any other state or jurisdiction as judged by the State Ethics Commission and/or a competent court having jurisdiction and following a hearing before members of the Building Official Certification Committee on such matters;

780 CMR: STATE BOARD OF BUILDING REGULATIONS AND STANDARDS  
THE MASSACHUSETTS STATE BUILDING CODE

7. Has made a false or misleading statement, or has made a material omission in any submission to the BBRS as judged by members of the Building Official Certification Committee following a hearing on such matters;
8. Has failed to enforce the provisions of 780 CMR as prescribed by M.G.L. c. 143, § 3 as judged by the State Ethics Commission and/or a competent court having jurisdiction and following a hearing before members of the Building Official Certification Committee on such matters.

**110.R7.4.3 Violations and Penalties.**

**110.R7.4.3.1.** It shall be a violation of 780 CMR 110.R7 on or after November 12, 1992, for any individual to represent himself or herself to be qualified for a position that the individual does not currently hold, or to use a title or otherwise represent himself or herself to be qualified for a position that the individual does not currently hold, or to use a title or otherwise represent himself or herself as certified or authorized to act under the 780 CMR if that individual does not possess a certificate, unless such person is appointed subject to the provisions of 780 CMR 110.R7.1.6.1.3. In addition to any other remedy available under law, such representation shall be deemed a violation of 780 CMR 110.R7 and any other penalties as provided for by law.

**110 R7.4.3.2.** It shall be a violation of 780 CMR 110.R7 on and after November 12, 1992, for any local enforcing agency to offer employment, to

retain for employment or to permanently appoint any individual who is not certified in accordance with 780 CMR 110.R7, except on a conditional basis in accordance with 780 CMR 110.R7.1.6.1.3.

**110.R7.4.3.3.** No person whose certification has been revoked in accordance with procedures established by 780 CMR 110.R7 shall approach the Board for certification or re-certification until a period of at least one year has elapsed from the date of revocation. (The date of revocation shall be defined as the date that appears on the written decision relating to the case.) Any person applying for certification or recertification under these procedures shall be viewed as a first time candidate for certification and shall meet or exceed all applicable requirements of 780 CMR, 780CMR 110.R7 and Massachusetts General Law pertaining to the certification process; including but not limited to minimum qualifications defined for the positions of inspector of buildings building commissioner and local inspector. In addition no person whose certification has been revoked in accordance with procedures established by 780CMR 110.R7 shall approach the Board for certification or recertification without first complying with the examination schedule as herein defined in 780 CMR 110.R7 for the level of certification sought. Upon review of the matter by members of the BBRS and/or members of the Building Official Certification Committee, certification may be issued or reissued. However, the Board may permanently revoke a certification, for cause.